

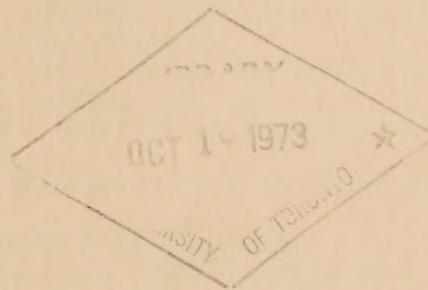
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Finance Act 1973

CHAPTER 51



LONDON
HER MAJESTY'S STATIONERY OFFICE
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Finance Act 1973

CHAPTER 51

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ELIZABETH II



Finance Act 1973

1973 CHAPTER 51

An Act to grant certain duties, to alter other duties, and to amend the law relating to the National Debt and the Public Revenue, and to make further provision in connection with Finance. [25th July 1973]

Most Gracious Sovereign,

WE, Your Majesty's most dutiful and loyal subjects, the Commons of the United Kingdom in Parliament assembled, towards raising the necessary supplies to defray Your Majesty's public expenses, and making an addition to the public revenue, have freely and voluntarily resolved to give and grant unto Your Majesty the several duties hereinafter mentioned; and do therefore most humbly beseech Your Majesty that it may be enacted, and be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I

CUSTOMS AND EXCISE

1.—(1) For the following provisions of the Finance Act 1964 Alteration of revenue duties, namely—

1964 c. 49.

(a) Table 1 in Schedule 1 (spirits other than imported perfumed spirits) as substituted by section 56(2) of the Finance Act 1972; and

1972 c. 41.

(b) Schedules 2 to 5 (beer, wine, British wine and tobacco) as substituted by section 1(2) of the Finance Act 1969; 1969 c. 32.

there shall be substituted the provisions set out in Schedules 1 to 5 to this Act.

PART I
1951 c. 43.

1928 c. 17.
1949 c. 47.
1972 c. 41.

1971 c. 12.

1952 c. 44.

(2) In lieu of the duties of customs and excise charged on matches under section 4 of the Finance Act 1951 there shall be charged on matches imported into the United Kingdom a duty of customs, and on matches sent out from the premises of a manufacturer of matches a duty of excise, at the rates shown in Schedule 6 to this Act.

(3) The duties of customs and excise charged on mechanical lighters by section 6 of the Finance Act 1928 shall, instead of being charged at the rates specified in section 8 of the Finance Act 1949 and section 56(3) of the Finance Act 1972, be charged at the rates shown in Schedule 7 to this Act, but no duty shall be chargeable under section 6 of the Act of 1928 on a gas lighter, that is to say a mechanical lighter which is shown to the satisfaction of the Commissioners to be constructed solely for the purpose of igniting gas for domestic use.

(4) The Treasury may by order made before 1st July 1977 make such provision for altering—

(a) the rates or incidence of the duties of customs chargeable and reliefs allowable under the Hydrocarbon Oil (Customs & Excise) Act 1971, and

(b) the rates of other duties of customs and of drawbacks, as may be required to give effect to any Community obligation or any obligation under the Geneva Protocol of 21st December 1972.

(5) An order under the preceding subsection—

(a) may make new distinctions or abolish any distinction between goods of different origin;

(b) may amend the Hydrocarbon Oil (Customs & Excise) Act 1971 and the Customs and Excise Act 1952 and substitute for any relief under the Act of 1971 such relief as may be specified in the order; and

(c) may, instead of specifying an inconvenient rate, specify the nearest higher or lower rate that appears to the Treasury to be convenient.

(6) An order under subsection (4) of this section shall be made by statutory instrument and may be varied or revoked by a subsequent order; and any such order—

(a) shall, if it does not fall within paragraph (b) below, be subject to annulment in pursuance of a resolution of the House of Commons; and

(b) shall, if it increases the rate or extends the incidence of any duty or reduces any relief, be laid before the House of Commons after being made, and, unless it is approved by that House before the expiration of twenty-eight days beginning with the date on which it was made, shall cease to have effect on the expiration of that period, but

without prejudice to anything previously done thereunder or to the making of a new order.

PART I

In reckoning any such period no account shall be taken of any time during which Parliament is dissolved or prorogued or during which the House of Commons is adjourned for more than four days.

(7) The substitution by or under this section of a rate of drawback for a rate previously in force shall apply only in relation to goods in respect of which duty at the corresponding rate has been paid.

(8) In Schedules 1 to 7 to this Act—

- (a) any rate shown under the heading 1st July 1973 shall as from that date replace the corresponding rate in force before that date ; and
- (b) rates shown under any of the following headings apply to goods of the following descriptions (the lower or lowest rate applying where more than one rate would otherwise be applicable)

Heading

Goods

Commonwealth	...	Goods qualifying for Commonwealth preference.	
Convention	...	Goods originating in a country which at the end of 1972 was part of the Convention area within the meaning of the European Free Trade Association Act 1960.	1960 c. 19.
Republic of Ireland	...	Goods of the Republic of Ireland consigned to the United Kingdom from that country.	
EEC	...	Goods originating or in free circulation in a State which is a member of the European Economic Community.	

Full Other goods.

(9) In section 111(1) and section 122 of the Customs and Excise Act 1952 (which provide for remission of duty on spirits in certain cases by reference to the preferential rate) the following paragraphs shall be substituted for paragraphs (a) and (b)—

- “ (a) in the case of British spirits, without payment of duty ;
- (b) in the case of imported spirits, on payment of the difference (if any) between the duty of customs chargeable on the spirits and the duty of excise chargeable on like spirits ”.

PART I

(10) This section shall be deemed to have had effect as from 1st April 1973.

Regulations for determining origin of goods.

2.—(1) The Secretary of State may by regulations make provision for determining, for the purposes of any duty of customs, the origin of any goods in cases where it does not fall to be determined under a Community regulation or any Act or other instrument having the force of law.

(2) Regulations under this section may—

- (a) make provision as to the evidence which is to be required or is to be sufficient for the purpose of showing that goods are of a particular origin ; and
- (b) make different provision for different purposes and in relation to goods of different descriptions.

(3) Subject to the provisions of any regulations under this section, where in connection with a duty of customs chargeable on any goods any question arises as to the origin of the goods, the Commissioners may require the importer of the goods to furnish to them, in such form as they may prescribe, proof of any statement made to them as to any fact necessary to determine that question ; and if such proof is not furnished to their satisfaction, the question may be determined without regard to that statement.

(4) Regulations under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the House of Commons.

Continuation of powers under section 9 of Finance Act 1961.
1961 c. 36.
1972 c. 41.

3. The period after which orders of the Treasury under section 9 of the Finance Act 1961 may not be made or continue in force (which, by section 60 of the Finance Act 1972, was extended until the end of August 1973) shall extend until the end of August 1974 or such later date as Parliament may hereafter determine.

PART II**VALUE ADDED TAX AND CAR TAX**

4.—(1) Where the Commissioners of Customs and Excise are satisfied that purchase tax or a duty to which this section applies was charged on or in respect of goods or on or in respect of parts or ingredients of goods which at the beginning of April 1973 were unused and held by a taxable person for sale in the course of his business, then if—

- (a) before the end of April 1973 or, with the sanction of the Commissioners, at a later date the Commissioners were notified, in the manner required by the notice published by them as Notice No. 748, of the particulars so required ; and

(b) the other conditions mentioned in that Notice are satisfied;

PART II

an amount determined or arrived at in accordance with subsection (2) of this section to take account of the tax or duty charged may, in the manner specified in the Notice, be included in the return made by the taxable person under Part I of the Finance Act 1972 for the first prescribed accounting period or, 1972 c. 41. with the sanction of the Commissioners, in such a return made for a later period and shall, if so included, be treated for the purposes of that Part as an amount to be deducted as input tax.

In this subsection "sale" includes any supply under a hire-purchase agreement.

(2) The amount that may be so included shall be as follows—

- (a) if it is to take account of purchase tax, then, subject to paragraphs (b) and (c) below, it shall be the amount charged;
- (b) if purchase tax was charged at a higher rate than the corresponding rate in force on 7th November 1972 the amount shall be what the amount charged would have been had purchase tax been charged at that corresponding rate;
- (c) if purchase tax was charged in respect of a vehicle which, had purchase tax not been chargeable, would be a chargeable vehicle for the purposes of the car tax, the amount shall be three-fifths of the amount arrived at under paragraphs (a) and (b) above;
- (d) if the amount is to take account of a duty to which this section applies, then, subject to subsection (5) and paragraph (e) below, it shall be the excess of the amount charged over what it would have been had duty been charged at the corresponding rate in force on 1st April 1973;
- (e) if the duty was charged at a rate other than the corresponding rate in force on 7th November 1972, then, subject to subsection (5) below, the amount shall be the excess of the amount that would have been charged at that corresponding rate over the amount that would have been charged at the corresponding rate in force on 1st April 1973;

and such method may be used in determining that amount, or, if it cannot be determined, in arriving at an appropriate amount to be substituted for it, as the Commissioners may allow.

(3) Where by virtue of this section an amount is treated as input tax to take account of a duty charged, then, if any drawback or repayment falls to be allowed or made in respect of that duty, its amount shall be calculated as if the duty had been charged at the corresponding rate in force on 1st April 1973.

PART II

(4) For the purposes of subsections (2)(d), (2)(e) and (3) above, any country's membership of the European Economic Community shall be disregarded.

(5) In relation to duty charged on a gas lighter, the rates in force on 1st April 1973 shall be taken for the purposes of subsections (2)(d), (2)(e) and (3) above to be—

- (a) Convention, Republic of Ireland or excise, 10p per lighter,
- (b) other rates, 12½p per lighter.

(6) For the purposes of this section goods shall be deemed to be held by a person at the beginning of April 1973 if, and only if, they were—

- (a) produced by or supplied to him in the United Kingdom ; or
- (b) imported by him ;

before the end of March 1973 and had not then been supplied by him ; and any question whether goods were supplied by or to or were imported by any person before the end of March 1973 shall be determined as, under sections 7 and 47 of the Finance Act 1972, it falls to be determined for the purposes of the charge to value added tax.

(7) This section applies to any duty of customs or excise charged on—

- (a) spirits, other than imported perfumed spirits ;
- (b) beer ;
- (c) wine ;
- (d) British wine ;
- (e) tobacco ;
- (f) matches ; or
- (g) mechanical lighters.

(8) This section shall be deemed to have had effect from the beginning of April 1973.

1972 c. 41.

Value added
tax—time
of supply.

5. Section 7(5) of the Finance Act 1972 shall have effect, and be deemed always to have had effect, as if for the words “(notwithstanding the preceding provisions of this section) ” there were substituted the words “(to the extent that it is not treated as taking place at the time mentioned in subsection (4) of this section) ”.

Amendment
of Finance
Act 1972
s. 14.

6. Section 14 of the Finance Act 1972 (relief on supply of certain second-hand goods) shall have effect, and be deemed always to have had effect, as if the references to a supply on which no tax was chargeable included references to a transaction treated by virtue of an order under section 5(7) of that Act as neither a supply of goods nor a supply of services.

7. In section 24 of the Finance Act 1972 the following subsection shall be inserted after subsection (2):—

“ (2A) For the purposes of subsection (2) above a person who is not resident in the United Kingdom and whose place or principal place of business is outside the United Kingdom may be treated as not being a taxable person if as a result he will not be required to be registered under this Part of this Act.”

8. For paragraph 6 of Schedule 6 to the Finance Act 1972 there shall be substituted the following paragraph:—

“ 6. For each sitting of a value added tax tribunal the chairman shall be either the President or, if so authorised by the President, a member of the appropriate panel of chairmen constituted in accordance with paragraph 7 of this Schedule; and any other member of the tribunal shall be a person selected from the appropriate panel of other members so constituted, the selection being made either by the President or by a member of the panel of chairmen authorised by the President to make it.”

9. Paragraph 7 of Schedule 7 to the Finance Act 1972 shall have effect, and be deemed always to have had effect, as if at the end there were added the words “but where such a vehicle is imported after having been exported the provisions of section 52 of this Act and of this Schedule shall apply in relation to it as they apply in relation to a vehicle made outside the United Kingdom and not previously imported.”

PART III

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

10.—(1) Subject to subsection (2) below, income tax for the year 1972-73 shall be charged, in the case of an individual whose total income exceeded £3,000, at the same higher rates in respect of the excess of that income over £2,000 as were charged for the year 1971-72.

(2) An individual whose total income for the year 1972-73 did not exceed £3,500 shall be entitled to have the surtax chargeable by virtue of subsection (1) above reduced to an amount equal to 40 per cent. of the difference between his total income and £3,000.

11. Corporation tax shall be charged for the financial year 1972 at the rate of 40 per cent.

Charge of corporation tax for financial year 1972.

PART II

Supplies through agents.

1972 c. 41.

Membership of value added tax tribunals.

PART III
Alteration
of personal
reliefs.

12.—(1) In section 7 of the Taxes Act (relief for persons over sixty-five with small incomes)—

- (a) for the references to £634 and £929 (income limits for exemption) there shall be substituted references to £700 and £1,000; and
- (b) for the reference to £245 (excess over those limits beyond which relief by reduction of tax is excluded) there shall be substituted a reference to £340.

(2) Section 16 of the Taxes Act (relief in respect of dependent relative) shall have effect subject to the following modifications:—

- (a) in subsection (1) (relief limited by reference to total income of dependent relative) for the words “does not exceed £412 a year” there shall be substituted the words “does not in a year exceed by more than £100 a sum equal to the basic retirement pension for that year” and for the words from “deduction” to the end of the subsection there shall be substituted the words “deduction from his total income of £100 reduced, if the total income of the person so maintained exceeds the basic retirement pension, by the amount of the excess”;
- (b) in subsection (2) (modifications of subsection (1) where claimant is a woman) for paragraph (b) there shall be substituted the following paragraph:—

“(b) unless she is a married woman living with her husband, for each reference in that subsection to £100 there shall be substituted a reference to £145”;

- (c) at the end of subsection (2) there shall be inserted the following subsections:—

“(2A) Subject to subsection (2B) below, for the purposes of this section ‘the basic retirement pension’ for any year means the aggregate of the payments to which a person is entitled in that year on account of a Category A retirement pension under subsection (1) of section 24 of the Social Security Act 1973 if, throughout that year,—

- (a) he fulfils the conditions in paragraphs (a) and (b) of that subsection; and

- (b) none of those payments is reduced under section 26(1) of that Act (by reference to his earnings) or increased under any provision of subsections (4) to (7) of the said section 24 or under any other provision of that Act.

(2B) In relation to any time before the coming into force of section 24 of the Social Security Act 1973 c. 38. PART III
 1973, subsection (2A) above shall have effect as if for the words from 'Category A retirement pension' to '1973' there were substituted the words 'retirement pension under subsection (1) of section 30 of the National Insurance Act 1965 where the pension 1965 c. 51. is payable by virtue of his own insurance' and as if for paragraph (b) there were substituted the following paragraph:—

‘(b) none of those payments is reduced under subsection (7) of that section (by reference to his earnings) or increased under any other provision of that Act’”; and

(d) in subsection (3) (apportionment of relief where two or more persons jointly maintain a dependent relative) for the words from “the £100 mentioned” to “proviso to that subsection” there shall be substituted the words “the deduction of £100 or less mentioned in that subsection in respect of the person so maintained”.

13. Section 414(1) of the Taxes Act (relief from income tax on the first £21 of certain savings bank interest) shall, for the year 1974-75 and subsequent years of assessment, have effect with the substitution of a reference to £40 for each reference to £21. Increase in relief for savings bank interest.

14.—(1) A lump sum paid to a person on his retirement from an office or employment shall not be chargeable to income tax under Schedule E if— Lump sum benefits on retirement.

(a) it is paid in pursuance of any such scheme or fund as is described in subsections (1) and (2) of section 221 of the Taxes Act or in section 24(1) of the Finance Act 1970 c. 24. 1970 and is neither a payment of compensation to which section 73 of the Finance Act 1972 applies nor 1972 c. 41. a payment chargeable to tax under paragraph 9 of Schedule 3 to the Finance Act 1971; or 1971 c. 68.

(b) it is a benefit paid in pursuance of any such scheme or agreement as is referred to in section 220 of the Taxes Act or in pursuance of a retirement benefits scheme within the meaning of section 25 of the Finance Act 1970 and the person to whom it is paid was chargeable to tax under section 220 of the Taxes Act or section 23 of the Finance Act 1970 in respect of sums paid, or treated as paid, with a view to the provision of the benefit.

(2) This section shall be deemed always to have had effect.

PART III
Pensions and
payments on
retirement etc.
—controlling
directors.
1970 c. 24.

Charge to
additional
rate of certain
income of
discretionary
trusts.

1972 c. 41.

15. The following provisions relating to service of a controlling director shall cease to have effect, namely—

- (a) section 19(2)(f) of the Finance Act 1970 (which excludes approval of a retirement benefits scheme if such service is taken into account) ; and
- (b) the proviso to paragraph 4 of Schedule 8 to the Taxes Act (which requires such service to be left out of account for the purposes of relief under that Schedule from tax in respect of payments on retirement, etc.).

16.—(1) So far as income arising to trustees is income to which this section applies it shall, in addition to being chargeable to income tax at the basic rate, be chargeable at the additional rate.

(2) This section applies to income arising to trustees in any year of assessment so far as it—

- (a) is income which is to be accumulated or which is payable at the discretion of the trustees or any other person (whether or not the trustees have power to accumulate it) ; and
- (b) is neither (before being distributed) the income of any person other than the trustees nor treated for any of the purposes of the Income Tax Acts as the income of a settlor ; and
- (c) is not income arising under a trust established for charitable purposes only or income from investments, deposits or other property held for the purposes of a fund or scheme established for the sole purpose of providing relevant benefits within the meaning of section 26 of the Finance Act 1970 ; and
- (d) exceeds the income applied in defraying the expenses of the trustees in that year which are properly chargeable to income (or would be so chargeable but for any express provisions of the trust).

(3) This section also applies to sums apportioned to the trustees under paragraph 1 of Schedule 16 to the Finance Act 1972 and treated, under paragraph 5(2) of that Schedule as applied by subsection (4) below, as income received by the trustees.

(4) Sub-paragraphs (2) and (4) to (8) of paragraph 5 of Schedule 16 to the Finance Act 1972 shall, with the omission in sub-paragraph (2)(a) of the words following “ the apportionment relates ”, the substitution of “ income ” for “ total income ” and all other necessary modifications, apply to a sum apportioned to trustees as they apply to sums apportioned to an individual ; and paragraph 6 of that Schedule shall apply accordingly.

(5) For the purposes of this section amounts paid or credited to trustees in any year of assessment in respect of dividends or interest payable in respect of shares in or deposits with or loans to a building society with which arrangements under section 343 of the Taxes Act are in force for that year shall be treated as income for that year received by the trustees after deduction of income tax from a corresponding gross amount.

In this subsection expressions used in section 343 of the Taxes Act have the same meanings as in that section.

(6) In this section "trustees" does not include personal representatives; but where personal representatives, on or before the completion of the administration of the estate, pay to trustees any sum representing income which, if personal representatives were trustees within the meaning of this section, would be income to which this section applies, that sum shall be deemed to be paid to the trustees as income and to have borne income tax (at the basic rate).

This subsection shall be construed as if it were contained in Part XV of the Taxes Act.

(7) In relation to the year 1973-74 and subsequent years of assessment there shall be substituted in section 451 of the Taxes Act—

- (a) in subsection (2)(e), for the words "tax at the basic rate" the words "the sum of tax at the basic rate and tax at the additional rate"; and
- (b) in subsection (5), for the words "of income tax for that year" the words "of both tax at the basic rate and tax at the additional rate for that year".

(8) A notice given to trustees under section 8 of the Taxes 1970 c. 9. Management Act 1970 may require a return of the income arising to them to include particulars of the manner in which the income has been applied, including particulars as to the exercise of any discretion and of the persons in whose favour it has been exercised.

17.—(1) Where, in any year of assessment, trustees make a payment to any person in the exercise of a discretion exercisable by them or any person other than the trustees, then, if the sum paid is for all the purposes of the Income Tax Acts income of the person to whom it is paid (but would not be his income apart from the payment), the following provisions of this section shall apply with respect to the payment in lieu of section 52 or 53 of the Taxes Act.

(2) The payment shall be treated as a net amount corresponding to a gross amount from which tax has been deducted at a rate equal to the sum of the basic rate and the additional rate

Payments
under
discretionary
trusts.

PART III in force for the year in which the payment is made ; and the sum treated as so deducted shall be treated—

(a) as income tax paid by the person to whom the payment is made ; and

(b) so far as not set off under the following provisions of this section, as income tax assessable on the trustees.

(3) The following amounts, so far as not previously allowed, shall be set against the amount assessable (apart from this subsection) on the trustees in pursuance of subsection (2)(b) above :

(a) the amount of any tax on income arising to the trustees and charged at the additional as well as at the basic rate in pursuance of section 16 of this Act ; and

(b) the amount of tax at the additional rate on any sum treated, under paragraph 5(2) of Schedule 16 to the Finance Act 1972 as applied by section 16(4) above, as income of the trustees ; and

(c) the amount of tax at the basic rate on any amount taken for the purposes of paragraph 5 of Schedule 16 to the Finance Act 1972 as applied by section 16(4) above to be the amount to be excluded from the income of the trustees in accordance with sub-paragraph (6) of that paragraph ; and

(d) an amount of tax in respect of income found on a claim made by the trustees to have been available to them for distribution at the end of the year 1972-73, which shall be taken to be two-thirds of the net amount of that income ;

but tax on any income represented by amounts paid or credited as mentioned in section 16(5) of this Act after the end of the year 1973-74 shall be taken into account under paragraph (a) above only on production of a certificate from the building society concerned specifying those amounts and stating that an amount representing income tax on that income calculated at the basic rate has been or will be accounted for.

(4) In section 55 of the Taxes Act (certificates of deduction) after the words "section 52, 53 or 54 above" there shall be inserted the words "or section 17 of the Finance Act 1973".

(5) In this section "trustees" does not include personal representatives within the meaning of section 432(4) of the Taxes Act.

Discretionary
trusts—
relief for
overseas tax.

18.—(1) Subsection (2) of this section shall apply if a payment made by trustees falls to be treated as a net amount in accordance with section 17(2) of this Act and the income arising under the trust includes income in respect of which the trustees are entitled to credit for overseas tax under Part XVIII of the Taxes Act (in that subsection referred to as "taxed overseas income").

(2) If the trustees certify—

PART III

- (a) that the income out of which the payment was made was or included taxed overseas income of an amount and from a source stated in the certificate ; and
- (b) that that amount arose to them not earlier than in the year 1973-74 and not earlier than six years before the end of the year of assessment in which the payment was made ;

the person to whom the payment was made may claim that the payment, up to the amount so certified, shall be treated for the purposes of the said Part XVIII as income received by him from that source and so received in the year in which the payment was made.

19. Sections 78 and 79 of and Schedule 12 to the Finance Act 1972 shall have effect subject to the provisions of Schedule 8 to this Act.

Share option
and share
incentive
schemes.

1972 c. 41.

20. (1) Section 286 of the Taxes Act (loans to participators) shall not apply to a loan which, or so much of a loan as,—

Close
companies:
loans for
share
incentive
scheme.

- (a) is made after 5th April 1973 to a person satisfying the conditions specified in paragraph 2 of Part V of Schedule 12 to the Finance Act 1972 and used by him for the purpose of acquiring shares or interests in shares under an approved share incentive scheme ; or
- (b) is made after 5th April 1973 to trustees appointed under such a scheme and used by them for the purpose of acquiring shares or interests in shares under the scheme or of enabling persons satisfying those conditions to do so ;

unless the shares or interests are acquired from, or under arrangements made with, a participator in the company who acquired them neither under an approved share incentive scheme nor, without consideration, as the holder of shares acquired under such a scheme.

(2) Where by virtue of paragraph (a) or (b) of subsection (1) above the application of section 286 of the Taxes Act is excluded in relation to an amount lent by a close company and used by a person satisfying the conditions mentioned therein to acquire shares or interests in shares, then if, at a time when the whole or part of his debt to the company or the trustees is outstanding, he—

- (a) ceases to satisfy those conditions ; or
- (b) disposes of the whole or part of the shares or interests without applying the proceeds (so far as may be) in or towards the satisfaction of his debt ;

PART III

the company shall be regarded, for the purposes of that section, as making to him at that time a loan of an amount equal, subject to subsection (3) below, to so much of the debt as remains outstanding.

(3) Where, in a case falling within paragraph (b) of subsection (2) above, the proceeds mentioned therein are less than the amount of the debt that was outstanding immediately before the disposal, the loan which the company is to be regarded as making to the participator shall be of an amount equal to the proceeds less so much thereof as was applied towards the satisfaction of the debt.

(4) Without prejudice to the proviso to subsection (3) of section 303 of the Taxes Act, paragraph (c) of that subsection shall not apply so as to make an individual an associate of a participator as being entitled to benefit under a trust established for the purpose of an approved share incentive scheme.

(5) In this section "approved share incentive scheme" means a share incentive scheme approved under Schedule 12 to the Finance Act 1972 and expressions used in that Schedule have the same meanings as they have there.

1972 c. 41.

Amendments
relating
to close
companies.

21.—(1) Schedule 16 to the Finance Act 1972 (apportionment of income, etc. of close companies for accounting periods ending after 5th April 1973) shall have effect and, except in so far as any provision of Part I of Schedule 9 to this Act otherwise provides, shall be deemed always to have had effect subject to the amendments in that Part of that Schedule, and the transitional provisions in Part II of that Schedule shall have effect with respect to accounting periods of close companies beginning before 6th April 1973.

(2) Schedule 17 to the Finance Act 1972 (amendments relating to close companies) shall have effect and be deemed always to have had effect as if at the end of paragraph 8 (commencement) there were added the words "but does not affect the operation of any enactment in relation to any previous time".

(3) Paragraph 19(1) of Schedule 23 to the Finance Act 1972 (for the purposes of making shortfall assessments for 1973-74 under section 289(1) of the Taxes Act, it is to be assumed that section 232(2) of that Act, which charges certain distributions to income tax, is in force) shall have effect and be deemed always to have had effect as if after the words "of that Act" there were inserted the words "as amended by paragraph 27(b) of Schedule 6 to the Finance Act 1971" (substitution of "basic rate" for "standard rate").

1971 c. 68.

1970 c. 9.

(4) The repeal by the Finance Act 1972 of the reference in section 98 of the Taxes Management Act 1970 to section 301 of the Taxes Act shall not be taken to have effect in relation

to accounting periods in relation to which the repeal of section 301 does not have effect, that is to say accounting periods ending before 6th April 1973.

PART III

22.—(1) Where a person entitled to a tax credit in respect of a distribution to which this section applies is, by reason of any exemption from tax, entitled to recover tax and his holding (together with any associated holding) of any one class of the shares, securities or rights by virtue of which he is entitled to the distribution amounts to not less than 10 per cent. thereof, subsection (3) below shall apply to the income represented by any part of the distribution which is not a part—

(a) to which profits arising after the date of acquisition are attributable in accordance with Schedule 10 to this Act ; or

(b) in relation to which the date of acquisition is earlier than 6th April 1965.

(2) For the purposes of this section and of Schedule 10 to this Act the date of acquisition, in relation to any part of a distribution or profits attributable to it, is the date on which the shares, securities or rights by virtue of which a person is entitled to that part were acquired by him.

(3) Where this subsection applies to any income,—

(a) the exemption from tax shall not extend to that income ; and

(b) it shall be treated for the purposes of sections 52 and 53 of the Taxes Act as not brought into charge to income tax ; and

(c) no amount of interest shall be deducted from or set off against it under section 75 of the Finance Act 1972. 1972 c. 41.

(4) Where, by virtue of this section, an exemption from tax does not apply to any income represented by a distribution or part of a distribution, the person entitled to the income shall be liable to tax or, as the case may be, additional tax, on it at a rate equal to the additional rate in force at the time the distribution is made and shall be assessable to income tax or corporation tax accordingly.

(5) This section applies to any qualifying distribution made after 5th April 1973 but does not apply to an amount which—

(a) in accordance with sections 234 and 235 of the Taxes Act, or

(b) by virtue of paragraph 3(3) of Schedule 22 to the Finance Act 1972,

is treated as a qualifying distribution.

(6) Schedule 10 to this Act shall have effect for supplementing this section.

PART III
Disallowance
of reliefs in
respect of
bonus issues.

1972 c. 41.

23.—(1) This section has effect where, on or after 6th April 1973, any person (in this section referred to as “the recipient”) receives an amount treated as a distribution by virtue of—

- (a) section 234 of the Taxes Act (bonus issues following repayment of share capital),
- (b) subsection (1) of section 235 of that Act (matters not to be treated as repayments of share capital), or
- (c) paragraph 3(3) of Schedule 22 to the Finance Act 1972 (distributions in excess of new consideration received),

and in the following provisions of this section a distribution falling within any of paragraphs (a) to (c) above is referred to as a “bonus issue” and “relevant tax credit”, in relation to a bonus issue, means the tax credit to which the recipient of the bonus issue becomes entitled under section 86 of the Finance Act 1972 in respect of the bonus issue.

(2) Subject to subsection (6) below, if the recipient is entitled by reason of—

- (a) any exemption from tax, or
- (b) the setting-off of losses against profits or income,

to recover tax in respect of any distribution received by him, no account shall be taken for the purposes of any such exemption or set-off of any bonus issue or relevant tax credit received by him.

(3) Subject to subsection (6) below, where, by virtue of this section, no account is to be taken for the purposes of any exemption from tax of any bonus issue and the relevant tax credit, the person entitled to that issue and that credit shall be liable to tax or, as the case may be, additional tax, on them at a rate equal to the additional rate in force at the time the bonus issue is made and shall be assessable to income tax or corporation tax accordingly.

(4) Subject to subsection (6) below, a bonus issue and the relevant tax credit shall be treated for the purposes of sections 89 and 90 of the Finance Act 1972 and Schedule 23 to that Act as not being franked investment income.

(5) Subject to subsection (6) below—

- (a) the relevant tax credit relating to a bonus issue shall not be available to set against any income tax which the recipient is entitled to deduct under section 52, or with which he is chargeable by virtue of section 53, of the Taxes Act (annual payments), and
- (b) no interest may be deducted or set off under section 75 of the Finance Act 1972 (relief for payment of interest) from or against so much of a person’s income as consists of bonus issues and relevant tax credits.

(6) Nothing in subsections (2) to (5) above shall affect the proportion (if any) of any bonus issue made in respect of any shares or securities which, if it were declared as a dividend, would represent a normal return to the recipient on the consideration provided by him for the relevant shares or securities, that is to say, those in respect of which the bonus issue was made and, if those securities are derived from shares or securities previously acquired by the recipient, the shares or securities which were previously acquired; nor shall anything in those subsections affect the like proportion of the relevant tax credit relating to that bonus issue.

(7) For the purposes of subsection (6) above,—

- (a) if the consideration provided by the recipient for any of the relevant shares or securities was in excess of their market value at the time he acquired them, or if no consideration was provided by him for any of the relevant shares or securities, the recipient shall be taken to have provided for those shares or securities consideration equal to their market value at the time he acquired them; and
- (b) in determining whether an amount received by way of dividend exceeds a normal return, regard shall be had to the length of time previous to the receipt of that amount that the recipient first acquired any of the relevant shares or securities and to any dividends and other distributions made in respect of them during that time.

24. At the end of subsection (3) of section 256 of the Taxes Group income Act (which excludes the application of subsections (1) and (2) of that section to certain dividends and other payments) there shall be added the words "and shall not apply to a dividend in any case where, if those subsections do not apply to it, the company receiving the dividend will, or would but for section 22 or 23 of the Finance Act 1973, be entitled by virtue of any exemption to claim payment of the tax credit to which it is entitled in respect of the dividend".

25.—(1) Chapters I and II of Part XVII of the Taxes Act (tax avoidance: transactions in securities) shall be amended in accordance with Schedule 11 to this Act.

Tax avoidance:
transactions
in securities.

(2) Except in so far as any provision of that Schedule otherwise provides, Schedule 11 to this Act shall have effect with respect to distributions made after 5th April 1973.

26.—(1) Where a person, after 6th March 1973, acquires the right to receive the amount (with or without interest) stated in a certificate of deposit issued to him or any other person, any profits or gains arising to him from the disposal of that right

Transactions
in certificates
of deposit.

PART III

or, except so far as it is a right to receive interest, from its exercise shall, if not falling to be taken into account as a trading receipt, be treated as annual profits or gains chargeable to tax under Case VI of Schedule D.

(2) Where a person sustains a loss in a transaction which, if a profit had arisen from it, would be chargeable to tax by virtue of subsection (1) above, then, if he is chargeable to tax under Schedule C or D in respect of the interest payable on the amount stated in the certificate concerned, the amount of that interest shall be included in the amounts against which he may claim to set off the amount of his loss under section 176 or, as the case may be, section 179 of the Taxes Act (Case VI losses).

(3) For the purposes of this section profits or gains shall not be treated as falling to be taken into account as a trading receipt by reason only that they are included in the computation required by section 305(2) of the Taxes Act (insurance companies).

1968 c. 44.

(4) In this section "certificate of deposit" has the same meaning as in section 55 of the Finance Act 1968.

Treasury securities issued at a discount.

27.—(1) Where a security to which this section applies is issued at a discount tax shall not be charged in respect of the discount under Case III of Schedule D; but the discount shall not for that reason be regarded as annual profits or gains chargeable to tax under Case VI of Schedule D.

(2) This section applies to all securities issued by the Treasury after 6th March 1973, except Treasury bills.

Group relief: qualifications for entitlement.

28.—(1) The provisions of this section shall have effect on and after 6th March 1973 for the purposes of section 258 and the following sections of Chapter I of Part XI of the Taxes Act (group relief).

(2) Notwithstanding that at any time a company (in this subsection referred to as "the subsidiary company") is a 75 per cent. subsidiary or a 90 per cent. subsidiary, within the meaning of section 532 of the Taxes Act, of another company (in this subsection referred to as "the parent company") it shall not be treated at that time as such a subsidiary for the purposes of the enactments relating to group relief unless, additionally, at that time—

(a) the parent company is beneficially entitled to not less than 75 per cent. or, as the case may be, 90 per cent. of any profits available for distribution to equity holders of the subsidiary company; and

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(b) the parent company would be beneficially entitled to not less than 75 per cent. or, as the case may be, 90 per cent. of any assets of the subsidiary company available for distribution to its equity holders on a winding-up.

(3) Subject to subsection (4) below, for the purposes of the enactments relating to group relief, a member's share in a consortium, in relation to an accounting period of the surrendering company, shall be whichever is the lowest in that period of the following percentages, namely—

- (a) the percentage of the ordinary share capital of the surrendering company which is beneficially owned by that member;
- (b) the percentage to which that member is beneficially entitled of any profits available for distribution to equity holders of the surrendering company; and
- (c) the percentage to which that member would be beneficially entitled of any assets of the surrendering company available for distribution to its equity holders on a winding-up;

and if any of those percentages have fluctuated in that accounting period, the average percentage over the period shall be taken for the purposes of this subsection.

(4) In any case where the surrendering company is a subsidiary of a holding company which is owned by a consortium, for references in subsection (3) above to the surrendering company there shall be substituted references to the holding company.

(5) Part I of Schedule 12 to this Act shall have effect for supplementing this section, and the transitional provisions in Part II of that Schedule shall have effect in relation to this section and section 29 below.

(6) In consequence of the provisions of this section and of Part I of Schedule 12 to this Act, section 258 of the Taxes Act shall have effect subject to the following modifications:—

- (a) at the end of the proviso to subsection (2) (which provides that no claim may be made by a member of a consortium in particular circumstances) there shall be added the words "nor if the member's share in the consortium in the relevant accounting period of the surrendering company or holding company is nil"; and
- (b) paragraph (b) of subsection (8) shall be omitted.

(7) In this section, section 29 below and Schedule 12 to this Act—

- (a) "the enactments relating to group relief" means the provisions of the Taxes Act specified in subsection (1) above, and

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(b) any expression to which a meaning is assigned for the purposes of the enactments relating to group relief has the same meaning.

Group relief:
effect of
arrangements
for transfer of
company to
another group,
etc.

29.—(1) If, apart from this section, two companies (in this subsection referred to as "the first company" and "the second company") would be treated as members of the same group of companies and—

(a) in an accounting period which ends on or after 6th March 1973, one of the two companies has trading losses or other amounts eligible for relief from corporation tax which it would, apart from this section, be entitled to surrender as mentioned in subsection (1) of section 258 of the Taxes Act, and

(b) arrangements are in existence by virtue of which, at some time during or after the expiry of that accounting period,—

(i) the first company or any successor of it could cease to be a member of the same group of companies as the second company and could become a member of the same group of companies as a third company, or

(ii) any person has or could obtain, or any persons together have or could obtain, control of the first company but not of the second, or

(iii) a third company could begin to carry on the whole or any part of a trade which, at any time in that accounting period, is carried on by the first company and could do so either as a successor of the first company or as a successor of another company which is not a third company but which, at some time during or after the expiry of that accounting period, has begun to carry on the whole or any part of that trade,

then, for the purposes of the enactments relating to group relief, the first company shall be treated on and after 6th March 1973 as not being a member of the same group of companies as the second company.

(2) If a trading company is owned by a consortium or is a 90 per cent. subsidiary of a holding company which is owned by a consortium and—

(a) in any accounting period ending on or after 6th March 1973 the trading company has trading losses or other amounts eligible for relief from corporation tax which it would, apart from this section, be entitled to surrender as mentioned in subsection (1) of section 258 of the Taxes Act, and

(b) arrangements are in existence by virtue of which—

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(i) the trading company or any successor of it could, at some time during or after the expiry of that accounting period, become a 75 per cent. subsidiary of a third company, or

(ii) any person who owns, or any persons who together own, less than 50 per cent. of the ordinary share capital of the trading company has or together have, or could at some time during or after the expiry of that accounting period obtain, control of the trading company, or

(iii) any person, other than a holding company of which the trading company is a 90 per cent. subsidiary, either alone or together with connected persons, holds or could obtain, or controls or could control the exercise of not less than 75 per cent. of the votes which may be cast on a poll taken at a general meeting of the trading company in that accounting period or in any subsequent accounting period, or

(iv) a third company could begin to carry on, at some time during or after the expiry of that accounting period, the whole or any part of a trade which, at any time in that accounting period, is carried on by the trading company and could do so either as a successor of the trading company or as a successor of another company which is not a third company but which, at some time during or after the expiry of that accounting period, has begun to carry on the whole or any part of that trade,

then, for the purposes of the enactments relating to group relief, the trading company shall be treated on and after 6th March 1973 as though it did not (as the surrendering company) fall within any of paragraphs (a) to (c) of subsection (2) of section 258 of the Taxes Act (the cases where group relief is allowed to members of a consortium).

(3) In any case where a trading company is a 90 per cent. subsidiary of a holding company which is owned by a consortium, any reference in subsection (2) above to the trading company, other than a reference in paragraph (b)(iv) thereof, shall be construed as including a reference to the holding company.

(4) In this section "third company" means a company which, apart from any provision made by or under any such arrangements as are specified in paragraph (b) of either subsection (1) or subsection (2) above, is not a member of the same group of companies as the first company, within the meaning of subsection (1) above, or, as the case may be, the trading company or holding company to which subsection (2) above applies.

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(5) In subsections (1) and (2) above—

“connected persons” shall be construed in accordance with section 533 of the Taxes Act; and

“control” has the meaning assigned to it by section 534 of the Taxes Act.

(6) For the purposes of subsections (1) and (2) above a company is a successor of another if it carries on a trade which, in whole or in part, the other company has ceased to carry on and the circumstances are such that—

- (a) section 252 of the Taxes Act (company reconstructions without change of ownership) applies in relation to the two companies as the predecessor and the successor within the meaning of that section, or
- (b) the two companies are connected with each other within the terms of section 533 of the Taxes Act.

30.—(1) Subject to the provisions of this section, if—

- (a) under a contract entered into on or after 6th March 1973 a company (in this section referred to as “the first company”) incurs capital expenditure on the provision of machinery or plant which the first company lets to another person by another contract (in this section referred to as a “leasing contract”), and
- (b) apart from this subsection, the first company would be entitled to claim relief under subsection (1) or subsection (2) of section 177 of the Taxes Act in respect of losses incurred on the leasing contract, and
- (c) in the accounting period for which a first-year allowance, within the meaning of Chapter I of Part III of the Finance Act 1971, in respect of the expenditure referred to in paragraph (a) above is made to the first company, arrangements are in existence by virtue of which, at some time during or after the expiry of that accounting period, a successor company will be able to carry on any part of the first company’s trade which consists of or includes the performance of all or any of the obligations which, apart from the arrangements, would be the first company’s obligations under the leasing contract,

then, in the accounting period specified in paragraph (c) above and in any subsequent accounting period, the first company shall not be entitled to claim relief as mentioned in paragraph (b) above except in computing its profits (if any) arising under the leasing contract.

Leasing
contracts:
effect on
claims for
losses of
company
reconstruc-
tions.

1971 c. 68.

(2) For the purposes of this section a company is a successor of the first company if the circumstances are such that—

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- (a) section 252 of the Taxes Act (company reconstructions without change of ownership) applies in relation to the first company and the other company as the predecessor and the successor within the meaning of that section, or
- (b) the two companies are connected with each other within the terms of section 533 of the Taxes Act.

(3) For the purposes of this section losses incurred on a leasing contract and profits arising under such a contract shall be computed as if the performance of the leasing contract were a trade begun to be carried on by the first company, separately from any other trade which it may carry on, at the commencement of the letting under the leasing contract.

(4) In determining whether the first company would be entitled to claim relief as mentioned in subsection (1)(b) above, any losses incurred on the leasing contract shall be treated as incurred in a trade carried on by that company separately from any other trade which it may carry on.

31.—(1) The provisions of subsection (2) below shall apply in relation to a company (in this section referred to as "the partner company") which is a member of a partnership carrying on a trade if arrangements are in existence (whether as part of the terms of the partnership or otherwise) whereby—

Partnerships involving companies: effect of arrangements for transferring relief.

- (a) in respect of the whole or any part of the value of, or of any portion of, the partner company's share in the profits or loss of any accounting period of the partnership, another member of the partnership or any person connected with another member of the partnership receives any payment or acquires or enjoys, directly or indirectly, any other benefit in money's worth; or
- (b) in respect of the whole or any part of the cost of, or of any portion of, the partner company's share in the loss of any accounting period of the partnership, the partner company, or any person connected with that company, receives any payment or acquires or enjoys, directly or indirectly, any other benefit in money's worth, other than a payment in respect of group relief to the partner company by a company which is a member of the same group as the partner company for the purposes of group relief.

(2) In any case where the provisions of this subsection apply in relation to the partner company—

- (a) the company's share in the loss of the relevant accounting period of the partnership and its share in any charges on income, within the meaning of section 248

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of the Taxes Act, paid by the partnership in that accounting period shall not be available for set-off for the purposes of corporation tax except against its share in the profits of the trade carried on by the partnership ; and

- (b) except in accordance with paragraph (a) above, no trading losses shall be available for set-off for the purposes of corporation tax against the company's share in the profits of the relevant accounting period of the partnership ; and
- (c) except in accordance with paragraphs (a) and (b) above, no amount which, apart from this subsection, would be available for relief against profits shall be available for set-off for the purposes of corporation tax against so much of the company's total profits as consists of its share in the profits of the relevant accounting period of the partnership ; and
- (d) notwithstanding anything in section 85 of the Finance Act 1972, no advance corporation tax may be set against the company's liability to corporation tax on its share in the profits of the relevant accounting period of the partnership.

1972 c. 41.

(3) In subsection (2) above " relevant accounting period of the partnership " means any accounting period of the partnership ending on or after 6th March 1973 in which any such arrangements as are specified in subsection (1) above are in existence or to which any such arrangements apply ; but, in relation to any such accounting period which begins before that date, any reference in subsection (2) above to the company's share in the profits or loss of the accounting period or in any such charges on income as are referred to in subsection (2)(a) above shall be construed as a reference to such proportion only of that share as the part of that period beginning on 6th March 1973 bears to the whole of that period.

(4) If a company is a member of a partnership and tax in respect of any profits of the partnership is chargeable under Case VI of Schedule D, this section shall apply in relation to the company's share in the profits or loss of the partnership as if—

- (a) the profits or loss to which the company's share is attributable were the profits of, or the loss incurred in, a trade carried on by the partnership, and
- (b) any allowance which falls to be made under section 46(1) of the Finance Act 1971 (machinery and plant on lease) were an allowance made in taxing that trade.

1971 c. 68.

(5) For the purposes of this section, subsection (2) of section 155 of the Taxes Act (special rules for partnerships involving companies) shall have effect for determining a company's share in the profits or loss of any accounting period of a partnership as if, in the proviso to subsection (1) of that section, in paragraph (b), the words "or for capital allowances and charges" were omitted.

(6) Subject to subsection (7) below, to the extent that the partner company's share in the loss of any accounting period of the partnership is attributable—

- (a) to first-year allowances, within the meaning of Chapter I of Part III of the Finance Act 1971, in respect of 1971 c. 68. expenditure incurred by the partnership on the provision of machinery or plant, or
- (b) to writing-down allowances, within the meaning of Chapter II of Part I of the Capital Allowances Act 1968 c. 3. 1968, or, as the case may require, Chapter I of Part III of the Finance Act 1971, in respect of expenditure incurred by the partnership on the provision of machinery or plant, or
- (c) to initial allowances under section 56 of the Capital Allowances Act 1968 (in respect of expenditure on works in connection with mines, etc.) in respect of expenditure incurred by the partnership and falling within section 52(1) of the Finance Act 1971 (expenditure incurred on or after 27th October 1970 on the construction of works in a development area or Northern Ireland), or
- (d) to allowances under section 91 of the Capital Allowances Act 1968 in respect of expenditure incurred by the partnership on scientific research,

the partner company's share shall be available, notwithstanding anything in subsection (2) above, for surrender by way of group relief or for set-off under section 177(2) of the Taxes Act against the company's profits of the corresponding accounting period or periods, as defined in section 155(2) of that Act.

(7) Subsection (6) above shall not apply unless—

- (a) the partnership of which the partner company is a partner was in existence immediately before 6th March 1973; and
- (b) after 5th March 1973 there is no change in the proportion of the profits or loss of any accounting period of the partnership which constitutes the partner company's share, other than a change in respect of which the

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partner company furnishes the inspector with evidence in writing showing that the change results from an agreement entered into before 6th March 1973; and

(c) the expenditure concerned is incurred under a contract entered into by the partnership before 6th March 1973.

(8) For the purposes of subsection (6) above, the partner company's share in the loss of any accounting period of the partnership shall be treated as attributable to an allowance falling within any of paragraphs (a) to (d) of that subsection to the extent that it would not have been available for surrender by way of group relief or for set-off as mentioned in that subsection if no such allowance had been available to the partnership in respect of the expenditure concerned.

(9) In this section "group relief" has the same meaning as in section 258 of the Taxes Act and any question whether one person is connected with another shall be determined in accordance with section 533 of that Act.

Information
as to
arrangements
for
transferring
relief, etc.

1972 c. 41.

32.—(1) If a company—

(a) makes a claim for group relief, or

(b) being a party to a leasing contract, as defined in section 30 above, claims relief as mentioned in subsection (1)(b) of that section, or

(c) being a member of a partnership, either claims any relief which, if subsection (2) of section 31 above applied in relation to it, it would not be entitled to claim, or makes a return which is treated as a claim by virtue of section 85(5) of the Finance Act 1972, or

(d) makes a claim under section 92 of the Finance Act 1972 (surrender of advance corporation tax),

and the inspector has reason to believe that any relevant arrangements may exist, or may have existed at any time material to the claim, then at any time after the claim (or return) is made he may serve notice in writing on the company requiring it to furnish him, within such time being not less than thirty days from the giving of the notice as he may direct, with—

(i) a declaration in writing stating whether or not any such arrangements exist or existed at any material time, or

(ii) such information as he may reasonably require for the purpose of satisfying himself whether or not any such arrangements exist or existed at any material time, or

(iii) both such a declaration and such information.

(2) In this section "relevant arrangements", in relation to a claim (including a return which is treated as a claim) falling within any of paragraphs (a) to (d) of subsection (1) above, means such arrangements as are referred to in that enactment which is specified in the corresponding paragraph below, that is to say, —

- (a) subsection (1) or subsection (2) of section 29 above or paragraph 5(3) of Schedule 12 to this Act,
- (b) subsection (1)(c) of section 30 above,
- (c) subsection (1) of section 31 above,
- (d) paragraph 5(3) of Schedule 12 to this Act or subsection (9) of section 92 of the Finance Act 1972.

1972 c. 41.

(3) In a case falling within paragraph (a) of subsection (1) above, a notice under that subsection may be served on the surrendering company, within the meaning of section 258 of the Taxes Act, instead of or as well as on the company claiming relief.

(4) In a case falling within paragraph (c) of subsection (1) above, a notice under that subsection may be served on the partners instead of or as well as on the company alone, and accordingly may require them, instead of or as well as the company, to furnish the declaration, information or declaration and information concerned.

(5) In section 98 of the Taxes Management Act 1970 (penalty 1970 c. 9. for failure to furnish information) there shall be added in the first column of the Table the words "Section 32 of the Finance Act 1973".

(6) In this section, sections 29 to 31 above, paragraph 5(3) of Schedule 12 to this Act, and section 92(9) of the Finance Act 1972 "arrangements" means arrangements of any kind, whether in writing or not.

33. For the purpose of—

- (a) enabling the benefit of a company's advance corporation tax to be surrendered under section 92 of the Finance Act 1972, whether or not the tax is surplus advance corporation tax against corporation tax ; and
- (b) amending the provisions governing the determination of the question whether one body corporate is a subsidiary of another for the purposes of that section ; and
- (c) excepting an amount surrendered under that section from a claim under section 85(3) (carry back) of that Act ; and
- (d) extending the period for claiming relief ;

section 92 and certain other provisions of the Finance Act 1972 shall have effect, and be deemed always to have had effect, subject to the amendments specified in Schedule 13 to this Act.

PART III
Minor
amendments
of Part V
of Finance
Act 1972.
1972 c. 41.

Election for
herd basis.

Provisions
applicable to
BOAC, BEA
and the
British
Airways
Board.

1971 c. 75.

Amendment
of section 33
of Finance
Act 1965.
1965 c. 25.

Territorial
extension
of charge to
income tax,
capital gains
tax and
corporation
tax.

34. Part V of the Finance Act 1972 (taxation of companies and company distributions) shall have effect and be deemed always to have had effect subject to the minor amendments specified in Schedule 14 to this Act.

35.—(1) An election for the herd basis made under paragraph 2 of Schedule 6 to the Taxes Act after the passing of this Act and before 6th April 1976 shall be valid notwithstanding that it is not made within the time required by paragraph 2(3) or 6(2) of that Schedule.

(2) An election which is valid by virtue only of this section shall have effect only for the chargeable period in which it is made and subsequent chargeable periods.

36.—(1) If the British Overseas Airways Corporation or the British European Airways Corporation ceases to carry on a trade and, on the Corporation ceasing to carry on that trade, the British Airways Board begins to carry it on, section 252 of the Taxes Act (company reconstructions without change of ownership) shall apply in relation to the Corporation and the Board (as "the predecessor" and "the successor" for the purposes of that section) with the omission of paragraph (a) of subsection (1) (provisions applicable to common ownership of a trade).

(2) In section 59(1) of the Civil Aviation Act 1971 (application of group income and group relief provisions to the Corporations and the British Airways Board) after the words "shall be treated", in the second place where they occur, there shall be inserted the words "notwithstanding anything in section 28 of the Finance Act 1973".

37. Section 33 of the Finance Act 1965 (replacement of business assets) shall apply, where the acquisition of the new assets or of the interest in the new assets referred to therein takes place on or after 6th April 1973, with the substitution in subsection (3) for the words "ending twelve months after the disposal" of the words "ending three years after the disposal".

38.—(1) The territorial sea of the United Kingdom shall for all purposes of income tax, capital gains tax and corporation tax (including the following provisions of this section) be deemed to be part of the United Kingdom.

(2) In this section and in Schedule 15 to this Act—

(a) "exploration or exploitation activities" means activities carried on in connection with the exploration or exploitation of so much of the seabed and subsoil and their natural resources as is situated in the United Kingdom or a designated area; and

PART III

- (b) "exploration or exploitation rights" means rights to assets to be produced by exploration or exploitation activities or to interests in or to the benefit of such assets ; and
- (c) references to the disposal of exploration or exploitation rights include references to the disposal of shares deriving their value or the greater part of their value directly or indirectly from such rights, other than shares quoted on a recognised stock exchange (within the meaning of the Corporation Tax Acts) ; and
- (d) "shares" includes stock and any security as defined in section 237(5) of the Taxes Act ; and
- (e) "designated area" means an area designated by Order in Council under section 1(7) of the Continental Shelf 1964 c. 29. Act 1964.

(3) Any profits or gains from exploration or exploitation activities carried on in a designated area or from exploration or exploitation rights shall be treated for the purposes of income tax or corporation tax as profits or gains from activities or property in the United Kingdom ; and any gains accruing on the disposal of such rights shall be treated for the purposes of Part III of the Finance Act 1965 as gains accruing on the disposal of assets 1965 c. 25. situated in the United Kingdom.

(4) Any profits or gains arising to any person not resident in the United Kingdom from exploration or exploitation activities carried on in the United Kingdom or in a designated area or from exploration or exploitation rights, and any gains accruing to such a person on the disposal of such rights shall, for the purposes of corporation tax or capital gains tax, be treated as profits or gains of a trade, or gains accruing on the disposal of assets used for the purposes of a trade, carried on by that person in the United Kingdom through a branch or agency.

(5) In relation to exploration or exploitation rights disposed of by a company resident in a territory outside the United Kingdom to a company resident in the same territory or in the United Kingdom, sections 273 to 275 and 278 to 279 of the Taxes Act (transfer within group and company ceasing to be member of group) shall apply as if in section 272 of that Act (definition of "group" etc.) subsections (1)(a) and (2) were omitted.

(6) Any emoluments from an office or employment in respect of duties performed in a designated area in connection with exploration or exploitation activities shall be treated for the purposes of income tax as emoluments in respect of duties performed in the United Kingdom.

PART III

(7) This section shall have effect for the purposes of income tax and capital gains tax for the year 1973-74 and subsequent years of assessment and for the purposes of corporation tax for the financial year 1973 and subsequent years.

(8) Schedule 15 to this Act shall have effect for supplementing this section.

Underwriters.

39. Schedule 16 to this Act shall have effect with respect to income tax and capital gains tax on the income and gains of underwriting members of Lloyd's or any approved association of underwriters.

Overseas life insurance companies.

40.—(1) Section 516(2) of the Taxes Act shall have effect with respect to any accounting period ending after the commencement of this Act as if the following were inserted at the end of paragraph (b): “ and

(c) shall not affect the liability to tax of an overseas life insurance company for any accounting period for which a charge to corporation tax under Case III of Schedule D arises under section 316 of this Act in respect of any of its income from the investments of its life assurance fund (excluding the pension fund and general annuity fund, if any) or for which such a charge would arise if there were such income ”.

(2) Where an overseas life insurance company receives a qualifying distribution made after 5th April 1973 by a company resident in the United Kingdom and relief in respect of the distribution is not available or is not claimed under arrangements specified in an Order in Council made under section 497 of the Taxes Act, the overseas life insurance company shall be deemed for the purposes of sections 312, 314, 316, 318 and 319 of the Taxes Act and Schedule 18 to the Finance Act 1972 to be entitled to such a tax credit in respect of the distribution as it would be entitled to under section 86 of the Finance Act 1972 if it were resident in the United Kingdom; and accordingly the distribution shall be treated for the purposes of those provisions as representing income equal to the aggregate of the amount or value of the distribution and the amount of that credit.

(3) Where under subsection (2) above an overseas life insurance company is deemed to be entitled to a tax credit in respect of a distribution, it may claim to have the income represented by the distribution set, subject to subsection (4) below, against its profits chargeable to tax under section 312 or against its income chargeable to tax in accordance with section 316 of the Taxes Act or partly against the one and partly against the

other ; but to the extent that any income is so set the tax credit included in it shall not be payable and shall not be set against corporation tax under paragraph 6 of Schedule 18 to the Finance Act 1972 c. 41. PART III

(4) The amounts that an overseas life insurance company may by virtue of this section set against profits or income of any description shall not exceed the amount of the profits or income of that description and shall be further limited as follows :—

- (a) the amount set against profits arising from general annuity business shall not exceed a portion of the company's income from investments referable to that business, and that portion shall be determined by the same formula as determines under section 318 of the Taxes Act the portion of those profits which is chargeable to tax ; and
- (b) the amount set against profits from pension business shall not exceed such of its income referable to that business as is represented by distributions in respect of which the company is deemed to be entitled to a tax credit by virtue of this section, and shall not reduce any other income.

(5) Where by virtue of a set-off under this section income or profits of any description are reduced by any amount, that amount shall be left out of account in determining the amount of income tax which is available for set-off against corporation tax under section 246(3) of the Taxes Act.

(6) A claim under this section in respect of a distribution shall not prevent the making of a subsequent claim for relief in respect of that distribution under arrangements specified in an Order in Council made under section 497 of the Taxes Act; but where such a subsequent claim is made the claim under this section shall be deemed never to have been made, and no adjustment (whether by additional assessments or otherwise) to which the subsequent claim gives rise shall be out of time if it is made within twelve months after the making of the subsequent claim.

(7) Section 323 of the Taxes Act (interpretation) shall apply for the purposes of this section.

41. The boundaries of any division specified by an order made or having effect as if made under section 2(6) of the Taxes Management Act 1970 and in operation immediately before—

(a) 1st April 1974, if the division is in England or Wales ; 1970 c. 9.
and

(b) 16th May 1975, if the division is in Scotland ;

shall remain the same on and after that day as if there were then no change of local government areas (but without prejudice to the making of new orders under that section).

PART III
**Double
 taxation
 Agreement
 with Republic
 of Ireland.**

42.—(1) The Agreement set out in Schedule 17 to this Act, that is to say, the Agreement made on 2nd May 1973 between the Governments of the United Kingdom and of the Republic of Ireland relating to the first of the Agreements set out in Schedule 12 to the Taxes Act as amended by the second of those Agreements, is hereby confirmed, and, subject to the necessary steps being taken to give it the force of law in the Republic of Ireland, shall have effect accordingly.

(2) Where, under Article 2 of the Agreement of 2nd May 1973, the exemption from Republic of Ireland income tax to which a company resident in the United Kingdom is entitled in respect of a dividend (as defined in that Article) is limited, the tax to which it is liable by virtue of that Article shall, on a claim made for the purpose to the Board, be allowed (subject to subsection (3) below) as a credit against the corporation tax attributable to that dividend.

(3) The aggregate of the amounts of credit allowed—

- (a) under subsection (2) above for Republic of Ireland income tax ; and
- (b) under any arrangement specified in an Order in Council made under section 497 of the Taxes Act for Republic of Ireland corporation profits tax ;

in respect of any dividend to which a company is entitled shall not exceed the amount of corporation tax attributable to that dividend.

(4) Where a company, under subsection (2) above, claims a credit for Republic of Ireland income tax then, notwithstanding section 516 of the Taxes Act, no deduction shall be made for that tax in computing the company's income for the purposes of corporation tax.

1972 c. 41.

(5) Subsections (4) to (6) of section 100 of the Finance Act 1972 shall apply, with the necessary modifications, for determining for the purposes of this section the corporation tax attributable to any dividend.

Occupation of
 Chevening
 House.

1959 c. 49.

Relief for
 interest on
 special charge.
 1968 c. 44.

43. Section 185 of the Taxes Act (accommodation occupied by holder of office or employment) shall not apply in relation to the occupation of Chevening House or any other premises held on the trusts of the trust instrument set out in the Schedule to the Chevening Estate Act 1959 by a person nominated in accordance with those trusts.

44. In relation to interest paid under subsection (3) of section 43 of the Finance Act 1968 after the end of the year 1972-73 subsection (5) of that section shall have effect as if the deduction allowable under it were a deduction in computing income for the

purpose of ascertaining the excess of liability to income tax over what it would be if all income tax were chargeable at the basic rate to the exclusion of any other rate and as if for the reference to the standard rate there were substituted a reference to the basic rate.

PART IV

PART IV

ESTATE DUTY

45.—(1) The provisions of this section shall have effect for Valuation determining the principal value, for the purposes of estate duty, of certain investments for purposes of estate duty, of any qualifying investments which—

- (a) constitute property passing on the death of a person dying after 6th March 1973; and
- (b) fall to be valued as at the date of that death for the purposes of estate duty; and
- (c) are sold by the appropriate person within the period of twelve months immediately following the date of that death.

(2) On a claim being made in that behalf by the appropriate person there shall be determined for the purposes of this section the amount (if any) by which—

- (a) the aggregate of the values which, apart from this section and apart from any reduction under section 35 of the Finance Act 1968, would be the principal values 1968 c. 44. for the purposes of estate duty of all the qualifying investments falling within paragraphs (a) and (b) of subsection (1) above which are sold by him as mentioned in paragraph (c) of that subsection

exceeds

- (b) the aggregate of the values of those investments at the time they were so sold, taking the value of any particular investments for this purpose as the price for which they were so sold or, if it is greater, the best consideration which could reasonably have been obtained for them at the time of the sale;

and in this section the amount of that excess is referred to, in relation to those investments, as “the loss on sale”.

(3) Subject to the following provisions of this section, in determining the estate duty chargeable on the death in question, the principal value of the investments to which the claim relates shall be treated as reduced by an amount equal to the loss on sale.

(4) Subject to subsection (5) below, if a claim is made under this section and, at any time during the period beginning on the date of the death in question and ending two months after the date of the last sale falling within subsection (1)(c) above of

PART IV

any qualifying investments to which the claim relates, the person making the claim purchases any qualifying investments in the same capacity as that in which he makes the claim, the loss on sale of the investments to which the claim relates shall be treated for the purposes of subsection (3) above as reduced by the proportion which the aggregate of the purchase prices of all the qualifying investments so purchased bears to the aggregate of the values referred to in subsection (2)(b) above (or, if the aggregate of those purchase prices equals or exceeds the aggregate of those values, the loss on sale shall be extinguished).

(5) If a claim is made under this section by any person in a capacity other than that of an executor or trustee—

(a) subsection (4) above shall have effect in his case as if for the words “in the same capacity as that in which he makes the claim” there were substituted the words “otherwise than in the capacity of an executor or trustee”, and

(b) no account shall be taken under that subsection of any qualifying investments purchased by him unless they are of the same description as one of the qualifying investments to which the claim relates.

(6) In this section—

“the appropriate person”, in relation to any qualifying investments falling within paragraphs (a) and (b) of subsection (1) above, means the person accountable for estate duty in respect of those investments or, if there is more than one such person and one of them is in fact accounting for that duty, that person;

“qualifying investments” means shares or securities which at the date of the death in question are quoted on a recognised stock exchange and holdings in a unit trust which at that date is an authorised unit trust, as defined in section 358 of the Taxes Act; and

“recognised stock exchange” has the same meaning as in the Corporation Tax Acts;

and any reference to the investments to which a claim relates is a reference to all the qualifying investments which, on the making of the claim, are taken into account under subsection (2) above in determining the loss on sale.

(7) Schedule 18 to this Act shall have effect for supplementing this section and any expression to which a meaning is assigned by subsection (2) or subsection (6) above has the same meaning in that Schedule as in this section.

(8) For the purposes of subsection (5) above and Schedule 18 to this Act, two investments, not being investments in an authorised unit trust, shall not be treated as of the same description if they are separately quoted on a recognised stock exchange,

and an investment in one authorised unit trust shall not be treated as of the same description as an investment in another authorised unit trust.

PART IV

46. Without prejudice to their powers under section 30 of Acceptance in the Finance Act 1953 (acceptance of objects associated with satisfaction of estate duty of certain buildings) and section 34(1) of the Finance Act 1956 (acceptance of certain works of art) the power of the Commissioners of Inland Revenue to accept property other than land in collections. satisfaction of estate duty or settlement estate duty shall include 1953 c. 34. power to accept— 1956 c. 54.

- (a) any picture, print, book, manuscript, scientific object or other thing which the Treasury are satisfied is pre-eminent for its national, scientific or historic interest, and
- (b) any collection or group of pictures, prints, books, manuscripts, works of art, scientific objects or other things if the Treasury are satisfied that the collection or group, taken as a whole, is pre-eminent for its national, scientific, historic or artistic interest,

and subsections (2) and (3) of the said section 30 (which regulate matters arising out of acceptances under that section) shall apply in the same way to acceptances under this section.

PART V

STAMP DUTY

47.—(1) If at the time, or as a result, of the occurrence after Stamp duty on 31st July 1973 of any of the transactions relating to a capital company which are specified in Part I of Schedule 19 to this Act (in this section referred to as "chargeable transactions")—

- (a) the place of effective management of the capital company is in Great Britain, or
- (b) the registered office of the capital company is in Great Britain but the place of its effective management is outside the member States,

then, subject to subsection (2) below, there shall be delivered to the Commissioners, within one month of the transaction, a statement in such form and containing such particulars with respect to the transaction as the Commissioners may prescribe.

(2) The obligation to deliver a statement to the Commissioners under subsection (1) above shall not apply in relation to a

PART V chargeable transaction falling within sub-paragraph (a) or sub-paragraph (b) of paragraph 1 of Schedule 19 to this Act if the transaction consists of or includes—

1948 c. 38.

- (a) the formation of a company which is to be incorporated with limited liability under the Companies Act 1948 and is to have a share capital, or
- (b) an allotment of shares in respect of which there is a duty under section 52(1) of that Act to deliver a return to the registrar of companies, or
- (c) the registration of a limited partnership (which is effected by sending or delivering a statement under section 8 of the Limited Partnerships Act 1907 to the registrar of companies), or
- (d) such a change in the contribution or liability of a member of a limited partnership as gives rise to a duty under section 9 of the Limited Partnerships Act 1907 to send or deliver a statement thereof to the registrar of companies.

1907.c. 24.

(3) In any case where, by virtue of subsection (2)(a) above, there is no obligation to deliver to the Commissioners a statement under subsection (1) above with respect to a chargeable transaction, a statement with respect thereto shall be delivered to the registrar of companies, in addition to the memorandum and articles to be delivered under section 12 of the Companies Act 1948, and—

- (a) that statement shall be registered by the registrar of companies upon the stamp duty chargeable in accordance with subsection (5) below being paid, and
- (b) unless that statement is so registered, the registrar of companies shall not register the memorandum and articles under the said section 12.

(4) If, by virtue of subsection (2) above, there is no obligation to deliver to the Commissioners a statement under subsection (1) above with respect to a chargeable transaction, then—

- (a) the return or statement required to be delivered or sent to the registrar of companies as mentioned in subsection (2) above, or
- (b) the statement required to be delivered to the registrar of companies under subsection (3) above,

shall contain the like particulars with respect to the transaction as would be required to be contained in a statement under subsection (1) above if the obligation under that subsection did apply.

(5) Subject to subsection (6) below, where a chargeable transaction occurs, the relevant document shall be charged with ad valorem stamp duty of £1 for every £100 or part of £100 of the amount determined in relation to that document under Part II of Schedule 19 to this Act.

(6) If the relevant document relates to a chargeable transaction which, by virtue of Part III of Schedule 19 to this Act, is an exempt transaction for the purposes of this section then, except as provided in that Part, stamp duty shall not be chargeable on the document under subsection (5) above, but the document shall not be treated as duly stamped unless it is stamped, in accordance with section 12 of the Stamp Act 1891, with a ^{1891 c. 39.} particular stamp denoting either that it is not chargeable with any duty or that it is duly stamped.

(7) If a chargeable transaction occurs and the stamp duty (if any) chargeable in accordance with this section on the relevant document is not paid within one month from the date of the transaction,—

- (a) the duty, if any, which is so chargeable shall be a debt due to Her Majesty from the capital company to which the transaction relates or, if that capital company is not a body corporate, shall be a debt due to Her Majesty for which each of the members of the capital company shall be jointly and severally liable; and
- (b) the capital company or, if it is not a body corporate, each of its members jointly and severally shall incur a fine equal to 5 per cent. of the duty chargeable and a similar fine for every month from the date of the transaction, other than the first, during which the duty remains unpaid.

(8) The supplementary provisions in Part IV of Schedule 19 to this Act shall have effect in relation to chargeable transactions and, in consequence of the provisions of this section, the amendments in Part V of that Schedule shall have effect.

(9) In this section and in Schedule 19 to this Act—

“registered office”, in relation to a limited partnership formed in accordance with the Limited Partnerships ^{1907 c. 24.} Act 1907, means the principal place of business of the partnership;

“the relevant document”, in relation to a chargeable transaction, means the statement required to be delivered under subsection (1) above or, if subsection (2) above applies,—

(a) the return or statement required to be delivered or sent to the registrar of companies as mentioned in subsection (2) above, or

(b) the statement required to be delivered to the registrar of companies under subsection (3) above.

PART V
Capital
companies.

1907 c. 24.

Abolition
of stamp
duty on
statements
relating to
capital and
on issue of
marketable
securities.
1891 c. 39.

1899 c. 9.

48.—(1) For the purposes of section 47 above and Schedule 19 to this Act, the expression “capital company” means—
 (a) a company incorporated with limited liability according to the law of any part of the United Kingdom;
 (b) a limited partnership formed in accordance with the Limited Partnerships Act 1907;
 (c) a company incorporated according to the law of a member State other than the United Kingdom;
 (d) any other corporation or body of persons the shares in whose capital or assets can be dealt in on a stock exchange in a member State; or
 (e) any other corporation or body of persons operating for profit, whose members have the right to dispose of their shares to third parties without prior authorisation and are responsible for the debts of the corporation or body only to the extent of their shares.

(2) For the avoidance of doubt, it is hereby declared that a unit trust (whether an authorised unit trust or not) is not, by virtue of paragraph (d) of subsection (1) above, a capital company for the purposes specified in that subsection.

49.—(1) On and after 1st August 1973 no stamp duty shall be chargeable on any statement under—
 (a) section 112 or section 113 of the Stamp Act 1891 (on statements relating to nominal share capital of limited companies); or
 (b) section 11 of the Limited Partnerships Act 1907 (on statements relating to contributions by limited partners);

unless the obligation to deliver the statement arose before that date, or the period within which it is required to be delivered or sent began on or before that date.

(2) No stamp duty shall be chargeable under section 8 of the Finance Act 1899 on any statement of an amount proposed to be secured by an issue of loan capital unless the obligation to deliver the statement arose before 1st January 1973; and in any case where duty has been paid under that section in respect of any statement on which, by virtue of this subsection, duty was not chargeable, the corporation, company or body of persons by whom the duty was paid shall be entitled, on making a claim in that behalf, to repayment of that duty.

(3) No stamp duty shall be chargeable by virtue of the heading “Marketable Security” in Schedule 1 to the Stamp Act 1891 on any instrument executed or made on or after 1st January 1973, but—

(a) nothing in this subsection or in the repeals effected by this Act shall affect the stamp duty chargeable on any instrument on the sale of a marketable security of any

description by reference to the heading in that Schedule
"Conveyance or Transfer on sale"; and

PART V

(b) without prejudice to section 74 of the Finance (1909-10) 1910 c. 8. Act 1910 (certain conveyances and transfers which operate as voluntary dispositions *inter vivos* to be chargeable with the same stamp duty as if they were conveyances on sale) any transfer, assignment, disposition or assignation of a marketable security of any description, otherwise than upon a sale thereof, shall be treated as falling within the heading in that Schedule "Conveyance or Transfer of any kind not hereinbefore described";

and in any case where duty has been paid by virtue of the said heading "Marketable Security" in respect of an instrument on which, by virtue of this subsection, duty was not chargeable, the person by whom the duty was paid shall be entitled, on making a claim in that behalf, to repayment of that duty.

(4) In any case where—

(a) stamp duty has been paid under any of the enactments specified in subsection (1) above on a statement which was required to be delivered on or after, or within a period which began after, 1st January 1973, and

(b) before 1st August 1975 a claim is made, in such form as the Commissioners may prescribe, by the company, corporation or partners by whom the duty was paid, and

(c) in the case of a company, no claim has been made previously under subsection (5) below,

there shall be determined the amount of duty, in this section referred to as "the notional new duty", which would have been payable by the company, corporation or partners in respect of transactions occurring in the period of seven months ending immediately before 1st August 1973 if sections 47 and 48 above and Schedule 19 to this Act had been in force on and after 1st January 1973 (with the substitution of a reference to 31st December 1972 for any reference in those provisions to 31st July 1973); and if the amount of duty paid as mentioned in paragraph (a) above exceeds the amount of the notional new duty, the company, corporation or partners shall be entitled to repayment of an amount equal to that excess.

(5) Subject to subsection (8) below, if on a claim made in such form as the Commissioners may prescribe it is proved to their satisfaction that—

(a) stamp duty has been paid in respect of the nominal share capital, or an increase in the registered or nominal share capital, of a company under section 112 or section 113 of the Stamp Act 1891, and

1891 c. 39.

PART V

(b) on 31st July 1973, the total of the registered or nominal share capital of the company exceeds the total of its issued share capital,

the company shall be treated as having paid, on account of any duty for which it may become liable under section 47(5) above, a sum equal to that part of the duty paid as mentioned in paragraph (a) above which was so paid in respect of the excess referred to in paragraph (b) above.

1927 c. 10.

(6) If at any time the nominal share capital of a company was treated as reduced under paragraph (A) of section 55(1) of the Finance Act 1927 (relief from capital duty in cases of reconstruction or amalgamation of companies) then, for the purposes of subsection (5) above, stamp duty shall be treated as having been paid as mentioned in that subsection, at the rate applicable when the acquisition referred to in paragraph (b) of the said section 55(1) occurred, in respect of an amount of nominal share capital equal to the amount of the reduction under the said paragraph (A).

(7) Subject to subsection (8) below, if, on 31st July 1973, the issued share capital of a company includes any shares which are not fully paid up, then, for the purposes of subsection (5)(b) above, the total of its issued share capital shall be treated as reduced by a sum equal to the total amount which remains to be paid up on those shares.

(8) If a claim is made under subsection (4) above by a company, no claim may be made by the company under subsection (5) above except at the same time as the claim under subsection (4) above; and for the purpose of any such contemporaneous claim under subsection (5) above and of determining the amount of any repayment under subsection (4) above, subsections (5) to (7) above shall have effect—

- (a) as if any reference therein to 31st July 1973 were a reference to 31st December 1972; and
- (b) as if paragraph (a) of subsection (5) above applied only to stamp duty paid on a statement which was required to be delivered before, or within a period which began on or before, 1st January 1973; and
- (c) as if the amount which, apart from this paragraph, the company would be treated as having paid as mentioned in subsection (5) above were to be applied first in reducing or extinguishing the amount of the notional new duty (so that only the balance, if any, will be treated as specified in subsection (5) above).

1899 c. 9.

(9) The repeal by this Act of section 8 of the Finance Act 1899 and of any other enactment amending that section shall not affect the construction of any enactment in which "loan capital" has the same meaning as in that section.

50.—(1) Where the House of Commons passes a resolution which—

- (a) provides for the variation or abolition of an existing stamp duty other than estate duty ; and
- (b) is expressed to have effect for a period stated in the resolution in accordance with the following provisions of this section ; and
- (c) contains a declaration that it is expedient in the public interest that the resolution should have statutory effect under the provisions of this section ;

then, subject to subsection (3) of this section, the resolution shall for the period so stated have statutory effect as if contained in an Act of Parliament.

(2) The period to be stated in a resolution is a period expressed as beginning on a date so stated and ending on, or thirty-one days or such less number of days as may be so stated after, the earliest of the dates mentioned in this subsection ; and those dates are—

- (a) the twenty-fifth day on which, after the day the resolution is passed, the House of Commons sits without a Bill containing provisions to the same effect as the resolution being read a second time and without a Bill being amended (whether by the House or a Committee of the House or a Standing Committee) so as to include such provisions ;
- (b) the rejection of such provisions during the passage through the House of a Bill containing them ;
- (c) the dissolution or prorogation of Parliament ; and
- (d) the expiration of the period of five months beginning with the day on which the resolution takes effect.

(3) A resolution shall cease to have statutory effect under this section if an Act comes into operation varying or abolishing the duty.

(4) The ending of the period for which a resolution has statutory effect under the provisions of this section shall not affect the validity of anything done during that period.

PART VI

MISCELLANEOUS AND GENERAL

51.—(1) The provisions of subsection (3) below shall have effect in any case where, in relation to an asset to which this section applies, there fails to be determined—

- (a) by virtue of section 7(5) of the Finance Act 1894 (principal value for purposes of estate duty) the price which, in the opinion of the Commissioners, property consisting of the asset would fetch if sold in the open market ; or

Determination for estate duty and capital gains tax of open market price of quoted shares and securities

1894 c. 30.

PART VI
1965 c. 25.

(b) by virtue of section 44(1) of the Finance Act 1965 (market value for purposes of tax on chargeable gains) the price which the asset might reasonably be expected to fetch on a sale in the open market.

(2) The assets to which this section applies are shares and securities which are not quoted on a recognised stock exchange, within the meaning of the Corporation Tax Acts, at the time as at which their principal value for the purposes of estate duty or their market value for the purposes of tax on chargeable gains falls to be determined.

(3) For the purposes of a determination falling within subsection (1) above, it shall be assumed that, in the open market which is postulated for the purposes of that determination, there is available to any prospective purchaser of the asset in question all the information which a prudent prospective purchaser of the asset might reasonably require if he were proposing to purchase it from a willing vendor by private treaty and at arm's length.

(4) The provisions of Schedule 20 to this Act shall have effect with respect to the application of this section.

(5) This section and Schedule 20 to this Act,—

(a) so far as they relate to estate duty, shall be construed as one with the Finance Act 1894 ; and

(b) so far as they relate to capital gains tax, shall be construed as one with Part III of the Finance Act 1965.

1894 c. 30.

Transitional
relief for
charities.

52.—(1) Where a charity (within the meaning of section 360 of the Taxes Act)—

(a) was entitled, by virtue of the exemption granted under subsection (1)(c)(ii) of that section, to repayment of tax under Schedule D for the year 1971-72 in respect of an annual payment received by it under a disposition (other than a disposition made for a consideration in money or money's worth) under which the amount actually payable did not vary with the standard rate of income tax ; and

(b) is so entitled for the year 1973-74 or any of the three subsequent years of assessment in respect of any annual payment received by it under that or a similar disposition which was made before 6th March 1973 and not varied on or after that date ;

the charity may, in addition to making a claim under that section for any of the years mentioned in paragraph (b) above for which it is entitled as mentioned therein, claim relief under

this section ; and on a claim so made it shall be entitled to be paid by the Commissioners of Inland Revenue out of moneys provided by Parliament an amount equal—

- (i) for the first of the years mentioned in paragraph (b) above, to the difference specified in subsection (2) below ;
- (ii) for the second of those years, to three-quarters of that difference ;
- (iii) for the third of those years, to one-half of that difference ; and
- (iv) for the last of those years, to one-quarter of that difference.

(2) The difference referred to in subsection (1) above is the difference between—

- (a) the aggregate amount of the repayments to which the charity was entitled as mentioned in paragraph (a) of that subsection ; and
- (b) the aggregate of what those repayments would have been if the standard rate for 1971-72 had been 30 per cent.

(3) A claim for relief under this section must be made not later than two years after the end of the year of assessment to which it relates and, if it relates to the year 1973-74, not earlier than 1st October 1973.

(4) Where the activities of a charity which has ceased to exist are carried on by another charity, this section shall apply as if that other charity had been entitled to any repayment of tax for the year 1971-72 to which the charity which has ceased to exist was entitled.

53.—(1) Section 214 of the Taxes Act (tax exemption in respect of certain overseas pensions and pension funds) shall have effect subject to the following modifications:—

- (a) at the end of paragraph (c) of subsection (1) there shall be inserted the following paragraph:—

“(d) a pension paid under section 1 of the Overseas Pensions Act 1973, whether or not paid out of a fund established under a scheme made under that section”;

- (b) in the proviso to subsection (1), after the words “paragraph (a)” there shall be inserted the words “or (d)”; and

- (c) in subsections (2) and (4), for the words “paragraph (b) or (c)” there shall be substituted the words “paragraph (b), (c) or (d)”.

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(2) Any provision of sections 213 to 217 of the Taxes Act (special treatment of certain overseas pensions and pension funds) which refers—

1973 c. 21.

- (a) to an enactment which, by virtue of subsection (3) of section 2 of the Overseas Pensions Act 1973, is to have effect as if it constituted a scheme made under that section, or
- (b) to any provision of, or any instrument made under, such an enactment,

shall have effect on and after the commencement of the said Act of 1973 as if it were a reference to the scheme under section 2 of that Act which, as mentioned in paragraph (a) above, is constituted by that enactment or to such other scheme made under that section as is certified by the Secretary of State for the purposes of the Taxes Act to correspond to that enactment; and the reference in section 37(3) of the Finance Act 1958 (estate duty treatment of pensions under the Overseas Service Act 1958) to a pension paid as mentioned in section 215(1) of the Taxes Act shall be construed accordingly.

(3) If and so long as provision is made by double taxation relief arrangements for a pension of a description specified in subsection (4) below to be exempt from tax in the United Kingdom and, by reason of Her Majesty's Government in the United Kingdom having assumed responsibility for the pension, payments in respect of it are made under section 1 of the Overseas Pensions Act 1973, then, to the extent that those payments are made to, or to the widow or widower of, an existing pensioner, the provision made under the arrangements shall apply in relation to the pension, exclusive of any statutory increases thereof, as if it continued to be paid by the government which had responsibility for it before that responsibility was assumed by Her Majesty's Government in the United Kingdom.

(4) The pensions referred to in subsection (3) above are pensions paid by—

- (a) the Government of Malawi for services rendered to that Government or to the Government of the Federation of Rhodesia and Nyasaland in the discharge of governmental functions,
- (b) the Government of Trinidad and Tobago in respect of services rendered to that Government in the discharge of governmental functions,
- (c) the Government of the Republic of Zambia for services rendered to that Government or to the Government of Northern Rhodesia or to the Government of the Federation of Rhodesia and Nyasaland in the discharge of governmental functions.

1958 c. 56.
1958 c. 14.

(5) If, immediately before 6th April 1973, a person resident in the United Kingdom is entitled to receive a pension as, or as the widow or widower of, an existing pensioner, and—

- (a) by virtue of sections 113 and 122 to 124 of the Taxes Act (foreign pensions chargeable to tax under Case V of Schedule D) income tax in respect of sums received on account of the pension in 1972-73 is assessed by reference only to the amount of income received in the United Kingdom, and
- (b) by reason of Her Majesty's Government in the United Kingdom having assumed responsibility for the pension, payments in respect of it are made under section 1 of the Overseas Pensions Act 1973,

1973 c. 21.

then, if and so long as the pension is received by that person or, where that person is an existing pensioner, by his or her widow or widower, the provisions of the Taxes Act shall apply in relation to it, exclusive of any statutory increases thereof, as if it continued to be paid by the government or other body or fund which had responsibility for it before that responsibility was assumed by Her Majesty's Government in the United Kingdom.

(6) If, by reason of Her Majesty's Government in the United Kingdom having assumed responsibility for a pension, allowance or gratuity, payments in respect of it are made under section 1 of the Overseas Pensions Act 1973, then the enactments relating to estate duty shall apply in relation to the pension, allowance or gratuity, exclusive of any statutory increases thereof, as if it continued to be paid by the government or other body or fund which had responsibility for it before that responsibility was assumed by Her Majesty's Government in the United Kingdom.

(7) At the end of section 273(5) of the Government of India 1935 c. 2 Act 1935 (pensions payable out of certain family pension funds relating to service in India to be exempt from estate duty) there shall be added the words "or to any fund administered under a scheme made under section 2 of the Overseas Pensions Act 1973 which is certified by the Secretary of State, for the purpose of the exemption conferred by this subsection, to correspond to an Order in Council under subsection (1) of this section."

(8) In section 40(4)(a) of the Finance Act 1956 (certain 1956 c. 54. pensions treated for estate duty purposes as if paid by the Government of India or the Government of Pakistan) for the words "the Pensions (India, Pakistan and Burma) Act 1955" 1955 c. 22. there shall be substituted the words "a scheme made under section 2 of the Overseas Pensions Act 1973 which is constituted by the Pensions (India, Pakistan and Burma) Act 1955 or is certified by the Secretary of State for the purposes of this

(25 Geo. 5 &
1 Edw. 8.).

PART VI

section to correspond to the said Act of 1955 " and for the words " is paid " there shall be substituted the words " was first paid under the said Act of 1955 ".

(9) In this section—

" double taxation relief arrangements " means arrangements specified in an Order in Council making any such provisions as are referred to in section 497 of the Taxes Act ;

" existing pensioner ", in relation to a pension, means a person by virtue of whose service the pension is payable and who retired from that service before 6th April 1973 ; and

" statutory increases ", in relation to a pension, allowance or gratuity, means so much (if any) of the pension, allowance or gratuity as is paid by virtue of the application to it of any provision of the Pensions (Increase) Act 1971 or any enactment repealed by that Act ;

and in this subsection and subsection (6) above " pension, allowance or gratuity " has the same meaning as in section 1 of the Overseas Pensions Act 1973.

1971 c. 56.

1973 c. 21.

Amendments consequential on establishment of The Stock Exchange.

54.—(1) In the enactments relating to income tax, corporation tax, capital gains tax, estate duty or stamp duty—

(a) references to the Stock Exchange, London or the London Stock Exchange, a stock exchange in the United Kingdom or a recognised stock exchange in the United Kingdom shall be construed as references to The Stock Exchange ;

(b) references to quotation on a stock exchange in the United Kingdom or a recognised stock exchange in the United Kingdom shall be construed as references to listing in the Official List of The Stock Exchange ; and

(c) references to a member of a stock exchange in the United Kingdom shall be construed as references to a member of The Stock Exchange ;

and those enactments shall have effect subject to the amendments specified in Schedule 21 to this Act.

(2) This section shall be deemed to have come into operation on 25th March 1973 but shall not affect the operation of any enactment in relation to anything done before that day.

55.—(1) For the purpose of the compilation or maintenance by the Business Statistics Office of the Department of Trade and Industry of a central register of businesses, or for the purpose

Disclosure of information for statistical purposes.

of any statistical survey conducted or to be conducted by that Office, the Commissioners or an authorised officer of the Commissioners may disclose to an authorised officer of that Office particulars of the following descriptions obtained or recorded by them in pursuance of Part I of the Finance Act 1972--

PART VI

1972 c. 41.

- (a) numbers allocated by the Commissioners on the registration of persons under that Part and reference numbers for members of a group;
- (b) names, trading styles and addresses of persons so registered or of members of groups and status and trade classifications of businesses; and
- (c) actual or estimated value of supplies.

(2) Subject to subsection (3) below, no information obtained by virtue of this section by an officer of the Business Statistics Office may be disclosed except to an officer of a Government department (including a Northern Ireland department) for the purpose for which the information was obtained, or for a like purpose.

(3) Subsection (2) above does not prevent the disclosure--

- (a) of any information in the form of a summary so framed as not to enable particulars to be identified as particulars relating to a particular person or to the business carried on by a particular person; or
- (b) with the consent of any person, of any information enabling particulars to be identified as particulars relating only to him or to a business carried on by him.

(4) If any person who has obtained any information by virtue of this section discloses it in contravention of this section he shall be liable on summary conviction to a fine not exceeding £400 or on conviction on indictment to imprisonment for a term not exceeding two years or to a fine or to both.

(5) In this section expressions used in Part I of the Finance Act 1972 have the same meanings as in that Part and references to the Business Statistics Office of the Department of Trade and Industry include references to any Northern Ireland department carrying out similar functions.

56.—(1) Where a Government department, in pursuance of ^{Charges for} any Community obligation or any international agreement or ^{services, etc., by} arrangement, provides any services or facilities or issues any ^{Government} authorisation, certificate or other document, it may, in connection therewith, require the payment of such fees or other charges ^{departments.} as may be prescribed by, or determined under, regulations made by the Minister in charge of the department with the consent of the Treasury.

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(2) Regulations under this section may provide for the recovery and disposal of any sums payable under the regulations and make different provision for different circumstances.

(3) The powers conferred by this section are without prejudice to any powers exercisable apart from this section to require the payment of fees or other charges.

(4) Regulations under this section shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(5) In this section "Government department" includes a department of the Government of Northern Ireland, and any regulations which the Minister in charge of such a department is empowered to make under this section may be made either by him or by the department, and with the consent of the Ministry of Finance for Northern Ireland instead of the Treasury; and in relation to regulations so made subsection (4) of this section shall not apply but they shall be subject to negative resolution, within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954, as if they were a statutory instrument within the meaning of that Act.

1954 c. 33
(N.I.).

1920 c. 67.

(6) For the purposes of section 6 of the Government of Ireland Act 1920 this section shall be deemed to be contained in an Act passed before the day appointed for the purposes of that section.

Payments to
sugar refiners.

57.—(1) If for any accounting period the revenues of a sugar refiner fall short of the total sums which are properly chargeable to revenue account for that period and the Minister of Agriculture, Fisheries and Food so directs, the Sugar Board shall make good the deficiency.

(2) The Minister of Agriculture, Fisheries and Food may with the approval of the Treasury give directions as to the way in which the revenues of a sugar refiner are to be computed for the purposes of this section and as to the sums to be treated for those purposes as properly chargeable to revenue account.

(3) In this section "sugar refiner" means a person other than the British Sugar Corporation Limited who carries on business in the United Kingdom as a refiner of sugar.

Trustee
Investments
Act 1961—
dividends
of water
companies.
1961 c. 62.
1972 c. 41.

58.—(1) The Treasury may by order make such amendments in paragraph 10 of Part II of Schedule 1 to the Trustee Investments Act 1961 (under which a trustee's power to invest in certain securities depends on the amount of dividends paid) and in any enactment or instrument modifying that paragraph as appear to them required in consequence of the repeal by the Finance Act 1972 of the provisions relating to the deduction of income tax from distributions made by companies.

(2) An order under this section may be varied or revoked by a subsequent order under this section, and any such order shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

PART VI

59.—(1) This Act may be cited as the Finance Act 1973. Citation,

(2) In this Act “the additional rate” means the additional rate mentioned in section 32(1) of the Finance Act 1971, and “the Taxes Act” means the Income and Corporation Taxes Act 1970.

interpretation,
construction,
extent and
repeals.1971 c. 68.
1970 c. 10.

(3) In this Act—

(a) Part I shall be construed as one with the Customs and Excise Act 1952 c. 44.

(b) Part II, so far as it relates to value added tax, shall be construed as one with Part I of the Finance Act 1972 1972 c. 41 and, so far as it relates to car tax, shall be construed as one with Part II of the Finance Act 1972;

(c) Part III, so far as it relates to income tax, shall be construed as one with the Income Tax Acts, so far as it relates to corporation tax, shall be construed as one with the Corporation Tax Acts and, so far as it relates to capital gains tax, shall be construed as one with Part III of the Finance Act 1965; 1965 c. 25.

(d) Part IV shall be construed as one with the Finance Act 1894 c. 10 1894; and

(e) Part V shall be construed as one with the Stamp Act 1891 c. 39 1891.

(4) Except so far as the context otherwise requires, any reference in this Act to any enactment shall be construed as a reference to that enactment as amended, and as including a reference to that enactment as applied, by or under any other enactment, including this Act.

(5) Except as otherwise expressly provided, such of the provisions of this Act as relate to matters in respect of which the Parliament of Northern Ireland has power to make laws do not extend to Northern Ireland.

(6) If the Parliament of Northern Ireland passes provisions amending or replacing any enactment of that Parliament referred to in this Act the reference shall be construed as a reference to the enactment as so amended or, as the case may be, as a reference to those provisions.

(7) The enactments mentioned in Schedule 22 to this Act (which include certain enactments which had ceased to have effect before the commencement of this Act) are hereby repealed to the extent specified in the third column of that Schedule, but subject to any provision at the end of any Part of that Schedule.

Section 1.

S C H E D U L E S

SCHEDULE 1

SPIRITS (RATES OF CUSTOMS AND EXCISE DUTIES)

TABLE 1: SPIRITS OTHER THAN IMPORTED PERFUMED SPIRITS

Description of spirits	Excise rate	Customs rates		
		Full	Common-wealth and Convention	EEC
		£	£	£
1. British spirits (per proof gallon) ...	15.4500	—	—	—
2. Imported spirits other than perfumed spirits—				
(a) not comprised below in this paragraph (per proof gallon)	—	15.5125	15.4500	15.5125
(b) liqueurs, cordials, mixtures and other preparations in bottle, entered in such manner as to indicate that the strength is not to be tested (per gallon) ...	—	20.9450	20.8575	20.9450
(c) ethyl alcohol or neutral spirits, undenatured, of a strength of 140 degrees proof or higher; denatured spirits (including ethyl alcohol and neutral spirits) of any strength (per proof gallon)	—	15.5750	15.4500	15.5500
(d) rum (per proof gallon) ...	—	15.5750	15.4500	15.5500

each of the above rates of duty being, in the case of spirits not warehoused or warehoused for less than three years, increased by £0.075 per proof gallon or, for spirits within paragraph 2(b) of this Table, by £0.10 per gallon.

SCHEDULE 2

Section 1.

BEER (RATES OF CUSTOMS AND EXCISE DUTIES AND DRAWBACKS)

	Excise rates (per 36 gallons)	Customs rates (per 36 gallons)		
		Full	Common- wealth and Convention	EEC
1. Duty	£ 6.90	£ 7.90	£ 6.90	£ 7.70
2. Drawback	6.90	7.90	6.90	7.70

each of the above rates of duty and drawback being, in the case of beer of an original gravity exceeding 1,030 degrees, increased by £0.29 for each additional degree.

Supplementary provision as to drawback

As respects beer the worts whereof before fermentation were of a specific gravity of less than 1,030 degrees the amount of drawback allowable shall not exceed the amount of the customs or excise duty shown to the satisfaction of the Commissioners to have been paid.

Section 1.

SCHEDULE 3
WINE (RATES OF CUSTOMS DUTIES)

Description of Wine	Rates of duty (per gallon)				
	Full	Common-wealth	Republic of Ireland	EEC	
				1st April 1973	1st July 1973
Light wine:—	£	£	£	£	£
Still—					
not in bottle ...	0.875	0.775	0.750	0.875	0.850
in bottle ...	1.000	0.850	0.750	1.000	0.950
Sparkling ...	1.500	1.400	1.050	1.500	1.480
Other wine not exceeding 32 degrees of proof spirit:—					
Still—					
not in bottle ...	1.975	1.475	1.000	1.975	1.875
in bottle ...	2.100	1.550	1.000	2.100	1.975
Sparkling ...	2.600	2.100	1.300	2.600	2.500
Wine exceeding 32 degrees of proof spirit:—					
Still—					
not in bottle ...	1.975	1.475	1.475	1.975	1.875
in bottle ...	2.100	1.550	1.475	2.100	1.975
Sparkling ...	2.600	2.100	2.100	2.600	2.500
together, in the case of wine exceeding 42 degrees of proof spirit, with an addition for each additional degree or fraction of a degree of	0.160	0.120	0.120	0.160	0.152

The rates shown under the heading 1st July 1973 replace as from that date the rates applicable to the following goods originating in Austria, Liechtenstein, Portugal (with the Azores and Madeira), Sweden or Switzerland, namely vermouths and other wines of fresh grapes flavoured with aromatic extracts.

For the purposes of this Schedule, "light wine" means wine not exceeding 25 degrees or, in the case of wine qualifying for Commonwealth preference, 27 degrees of proof spirit.

SCHEDULE 4
BRITISH WINE (RATES OF EXCISE DUTIES)

Section 1.

Description of British wine	Rates of duty (per gallon)
	£
Light British wine:—	
Still ...	0.75
Sparkling ...	1.05
Other British wine:—	
Still ...	1.00
Sparkling ...	1.30

For the purposes of this Schedule, "light British wine" means British wine not exceeding 27 degrees of proof spirit.

Section 1.

SCHEDULE 5
TOBACCO (RATES OF CUSTOMS AND EXCISE DUTIES AND DRAWBACKS)

TABLE 1

Customs	Rates of duty per pound					
	Full	Common-wealth	Convention	Republic of Ireland	EEC	
					1st April 1973	1st July 1973
TOBACCO	£	£	£	£	£	£
1. Unmanufactured:						
Containing 10 per cent. or more by weight of moisture ...	4.3050	4.2280	4.3050	4.2280	4.3050	4.2880
Other	4.3550	4.2700	4.3550	4.2700	4.3550	4.3362
2. Manufactured, viz.:						
Cigars	4.7490	4.6015	4.6015	4.6015	4.7195	4.7195
Cigarettes	4.5800	4.4615	4.3615	4.3615	4.5363	4.5363
Cavendish or negrohead:						
Manufactured in bond	4.4300	4.3325	4.4300	4.3325	4.4105	4.4105
Other	4.5300	4.4180	4.4180	4.4180	4.5076	4.5076
Other	4.4425	4.3450	4.3050	4.3050	4.4150	4.4150
3. Snuff and snuff work (including tobacco dust or powder and ground tobacco) ...	4.4680	4.3660	4.3550	4.3550	4.4454	4.4454

TABLE 2

TOBACCO	Excise	Rates of duty per pound	
		£	£
1. Unmanufactured:			
Containing 10 per cent. or more by weight of moisture ...			4.2200
Other			4.2610
2. Manufactured:			
Cavendish or negrohead manufactured in bond			4.3325

TABLE 3

Description of tobacco	Rates of drawback (per pound)			
	In respect of tobacco on which customs duty at the full or Convention rate has been paid	In respect of tobacco on which customs duty at the Commonwealth or Republic of Ireland rate or excise duty has been paid	In respect of tobacco on which customs duty at the EEC rate in force on 1st April 1973 has been paid	In respect of tobacco on which customs duty at the EEC rate in force on 1st July 1973 has been paid
Cigars	4.5220	4.4450	4.5220	4.5066
Cigarettes	4.3550	4.2780	4.3550	4.3396
Cut, roll, cake or other manufactured tobacco	4.3430	4.2660	4.3430	4.3276
Snuff (not being offal snuff)	4.3680	4.2910	4.3680	4.3526
Stalks and tobacco refuse	4.3180	4.2410	4.3180	4.3026

SCHEDULE 6

Section 1.

MATCHES (RATES OF CUSTOMS AND EXCISE DUTIES)

	Excise rate	Customs rates		
		Full	Convention and Republic of Ireland	EEC
For every 7,200 matches (and so in proportion for any less number of matches)	£	£	£	£
... 	0.4900	0.5225	0.4900	0.5160

SCHEDULE 7

Section 1.

MECHANICAL LIGHTERS (RATES OF CUSTOMS AND EXCISE DUTIES)

Excise rate (per lighter)	Customs rates (per lighter)	
	Full	Convention and Republic of Ireland
£ 0.2000	£ 0.2250	£ 0.2000

Section 19.

SCHEDULE 8

SHARE OPTION AND SHARE INCENTIVE SCHEMES

PART I

GENERAL

Profit-sharing schemes

1. Where an acquisition of shares or of an interest in shares in a body corporate is made as mentioned in subsection (1) of the principal section and the acquisition is made in pursuance of such arrangements as are mentioned in subsection (8) of that section, then, if the arrangements were made or modified after 22nd March 1973, subsections (2)(b) and (3)(b) of that section shall not be sufficient to exclude the application of subsections (4) and (7) of that section unless—

- (a) the arrangements satisfy the condition stated in paragraph 2 below ; and
- (b) the shares comply with paragraph 3 of Part II of the principal Schedule and satisfy the condition stated in paragraph 3 below.

2. The condition referred to in paragraph 1(a) above is that the arrangements allow every full-time employee of the company concerned who—

- (a) has been a full-time employee of that company for a continuous period of not less than five years ; and
- (b) is chargeable to tax in respect of his employment under Case I of Schedule E ; and
- (c) is not less than twenty-five years old ;

to acquire shares or interests in shares of the same class on similar terms.

3. The condition referred to in paragraph 1(b) above is that the shares—

- (a) are not subject to such restrictions as will or may result in the person acquiring the shares or an interest in the shares obtaining a benefit through an increase, subsequent to the acquisition, of the value or the value to him of the shares or interest ; and
- (b) cannot (whether by one transaction or a series of transactions) be exchanged for or converted into shares which are subject to such restrictions.

Acquisition of shares on normal terms

4.—(1) In relation to an acquisition of shares in a body corporate made after 22nd March 1973 the principal section shall have effect as if—

- (a) the following were substituted for paragraph (c) of subsection (2):—

“(c) the acquisition was an acquisition of shares and either of the following conditions was satisfied immediately after the acquisition, namely—

- (i) that the shares were not subject to such restrictions as are specified in subsection (2A) below, and were not exchangeable for shares subject to such restrictions, and the majority of the available shares of the same class was acquired otherwise than as mentioned in subsection (1) above ; or
- (ii) that the shares were not subject to such restrictions as are specified in paragraph (a) or (b) of subsection (2A) below, and were not exchangeable for shares subject to such restrictions, and the majority of the available shares of the same class were acquired by persons who were or had been employees or directors of, or of a body controlled by, the body in which they were shares and who were together able as holders of the shares to control that body.

For the purposes of this paragraph shares in a body are available shares if they are not held by or for the benefit of an associated company of that body ; and shares are exchangeable for other shares if (whether by one transaction or a series of transactions) they can be exchanged for or converted into the other shares ” ; and

(b) the following were inserted after subsection (2):—

“(2A) The restrictions referred to in subsection (2) above are—

- (a) restrictions not attaching to all shares of the same class ; or
- (b) restrictions ceasing or liable to cease at some time after the acquisition ; or
- (c) restrictions depending on the shares being or ceasing to be held by directors or employees of any body corporate (other than such restrictions imposed by a company’s articles of association as require shares to be disposed of on ceasing to be so held) ; and

(c) in subsection (6)(c) for the words from “any restriction” to “class” there were substituted the words “such restrictions as are specified in subsection (2A) above.”

(2) Subsection (4) of the principal section shall not apply, and shall be deemed never to have applied, to an acquisition of shares made before 23rd March 1973 if the condition specified in subparagraph (ii) of subsection (2)(c) (as substituted by sub-paragraph (1) of this paragraph) was satisfied immediately after the acquisition.

Shares subject to restrictions

5. Subject to paragraph 7 below, in determining for the purposes of the principal section, the principal Schedule and this Schedule

SCH. 8

(including any valuation made for those purposes) whether shares which, or interests in which, have been acquired after 18th October 1972 or are acquired or to be acquired by any person are subject to any restrictions, there shall be regarded as a restriction attaching to the shares any contract, agreement, arrangement or condition by which his freedom to dispose of the shares or any interest in them or to exercise any right conferred by them is restricted or by which such a disposal or exercise may result in any disadvantages to him or a person connected with him, except where the restriction is imposed as a condition of a loan which is not a related loan as defined by paragraph 6 below.

6.—(1) Subject to sub-paragraph (2) below, a loan made to any person is a related loan for the purposes of paragraph 5 above if it is made, arranged, guaranteed or in any way facilitated by the body corporate of which he is a director or employee, or by an associated company of that body or, if that body or an associated company of it is a close company, by any person having a material interest in the close company ; and a loan made to a person connected with another person is a related loan for the purposes of paragraph 5 above if it would be such a loan had it been made to that other person.

(2) A loan made to a person by the body corporate or associated company mentioned in sub-paragraph (1) above, or by a person having such a material interest as is mentioned therein, is not a related loan for the purposes of paragraph 5 above if the body or person making the loan carries on a business of making personal loans and the loan is made in the ordinary course of that business.

7. For the purposes of subsection (2)(c) of the principal section, shares acquired by any person shall not, by virtue of paragraph 5 above, be regarded as subject to any restriction by reason only of any contract, agreement, arrangement or condition providing for either or both of the following, that is to say—

- (a) the deposit of the shares with trustees as security for a loan repayable not later than seven years after the acquisition nor later than the time when that person ceases to hold the office or employment by virtue of which he obtained the right or was given the opportunity to acquire the shares ; and
- (b) the disposal of the shares, when that person ceases to hold that office or employment, to a person nominated in accordance with the contract, agreement, arrangement or condition ;

if, in the case of sub-paragraph (a) above, he acquired the shares at market value and, in the case of sub-paragraph (b) above, he is required to dispose of them at a price not exceeding their market value.

Transitional provisions

8. In so far as paragraphs 5 and 6 above apply in relation to a share option scheme or share incentive scheme they shall so apply notwithstanding that the scheme was approved before the com-

mencement of this Act ; but in relation to a scheme so approved the power of the Board under paragraph 4 of Part I of the principal Schedule to withdraw their approval shall not be exercised by reason only that by virtue of this paragraph a condition ceases to be satisfied, if before 6th April 1974 the scheme is varied so as to satisfy the condition.

SCH. 8

Minimum price of shares

9. In paragraph 5 of Part IV of the principal Schedule the words from "and where part of the price" to the end of sub-paragraph (1) and, in sub-paragraph (2)(b), the words "and that price" and the words from "both" to "thereof and" shall be omitted.

PART II

SAVINGS-RELATED SHARE INCENTIVE SCHEMES

Application of Part II

10. This Part of this Schedule applies to any share incentive scheme under which directors or employees pay for part of the shares or interests acquired by them under the scheme, or repay a loan made to them for the purpose of the acquisition, out of repayments made to them under a certified contractual savings scheme within the meaning of section 415 of the Taxes Act, and for this purpose a repayment may be taken as either including or as not including a bonus or interest.

11. In relation to a scheme to which this Part of this Schedule applies the principal Schedule shall have effect subject to the following provisions of this Part of this Schedule.

Participants

12. Paragraph 6 of Part II of the principal Schedule shall have effect as if at the end there were added the words "and every full-time employee of that company who is chargeable to tax in respect of his employment under Case I of Schedule E must be entitled to participate in the scheme to a reasonable extent if he is not less than twenty-five years old and has been a full-time employee of that company for a continuous period of not less than five years".

Issue of shares

13. Paragraph 5 of Part II of the principal Schedule (limitation on issue of shares) shall not apply and any shares issued under a scheme to which this Part of this Schedule applies shall be treated for the purposes of that paragraph as issued otherwise than under a scheme approved under that Schedule.

Limitation of rights

14. Paragraph 15 below shall apply in lieu of paragraphs 1 to 3 of Part IV of the principal Schedule.

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15. The acquisition by any person of shares or interests in shares under the scheme must be so limited that—

- (a) not less than 95 per cent. of the consideration for the acquisition either is payable after the acquisition or is paid out of a loan which is repayable after the acquisition; and
- (b) so much of the consideration for the acquisition as is payable after the acquisition or is payable out of a loan must not exceed the repayment due to that person under the certified contractual savings scheme out of which it is payable, the amount of the repayment being taken as the amount payable at the earliest time at which the maximum bonus is payable under the contractual savings scheme and to include that bonus.

Minimum price of shares

16. Paragraph 5(1)(b) of Part IV of the principal Schedule shall have effect as if for “80 per cent.” there were substituted “70 per cent.”.

Time limit for special restrictions

17. Paragraph 6 of Part IV of the principal Schedule shall have effect as if for the words “seven years”, in both places, there were substituted the words “eight years”.

Further conditions for approval

18. The conditions mentioned in paragraph 1 of Part I of the principal Schedule shall be deemed to include the conditions stated in paragraphs 19 and 20 below, and the condition stated in paragraph 4 of Part IV of the principal Schedule shall apply only to the extent that it does not prevent the condition stated in paragraph 20 below from being satisfied.

19. Subject to paragraph 20 below the scheme must provide for a participant's contributions under the certified contractual savings scheme to be payable under arrangements made with the company of which he is a director or employee and to be of such amounts as to secure as nearly as may be repayment of the amount required to discharge his obligation to pay the deferred part of the consideration for the shares or interest acquired by him, or, as the case may be, to repay the loan made to him for the purpose of the acquisition, the amount of the repayment under the contractual savings scheme being taken for this purpose as the amount payable at the earliest time at which a bonus or the maximum bonus is payable under it and as either including the bonus or as not including it.

20. A person acquiring shares or an interest in shares under the scheme must have the right, at the time payment of the deferred part of the consideration or repayment of the loan is due, to discharge his obligation by surrendering the shares or his interest.

Further condition to be complied with by director or employee

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21. The conditions specified in Part V of the principal Schedule shall be deemed to include the condition that the director or employee must not, while participating in a scheme to which this Part of this Schedule applies, participate in any share incentive scheme which is approved under the principal Schedule but to which this Part of this Schedule does not apply nor in any share option scheme which is approved under the principal Schedule and to which Part III of this Schedule does not apply.

Commencement

22. This Part of this Schedule shall come into force on such day as the Treasury may by order made by statutory instrument appoint.

PART III**SAVINGS-RELATED SHARE OPTION SCHEMES***Application of Part III*

23. This Part of this Schedule applies to any share option scheme under which—

- (a) directors and employees pay for the shares acquired by them in pursuance of rights obtained under the scheme out of repayments made to them under a certified contractual savings scheme within the meaning of section 415 of the Taxes Act ; and
- (b) subject to paragraph 24 below, the rights obtained under the share option scheme are not capable of being exercised earlier than at the time when repayments under the certified contractual savings scheme are due.

24. A right obtained by a director or employee under the share option scheme may be capable of being exercised earlier than mentioned in paragraph 23(b) above if he comes to hold the office or employment by virtue of which he is eligible to participate in the scheme—

- (a) not earlier than three years after obtaining the right, or
- (b) by reason of injury, disability, redundancy or death.

25. For the purposes of paragraph 23 above—

- (a) repayment under a certified contractual savings scheme may be taken as including or as not including a bonus or interest ; and
- (b) the time when repayment is due shall be, where repayment is taken as including the maximum bonus, the earliest time at which the maximum bonus is payable and, in any other case, the earliest time at which a bonus is payable under the scheme ;

and the question what is to be taken as so included must be required to be determined at the time when rights under the share option scheme are obtained.

SCH. 8 26. In relation to a scheme to which this Part of this Schedule applies the principal Schedule shall have effect subject to the following provisions of this Part of this Schedule and section 78 of the Finance Act 1972 shall have effect as if subsections (2) and (3) thereof were omitted.

1972 c. 41. 27. Paragraph 6 of Part II of the principal Schedule shall have effect as if at the end there were added the words "and every full-time employee of that company who is chargeable to tax in respect of his employment under Case I of Schedule E must be entitled to participate in the scheme to a reasonable extent if he is not less than twenty-five years old and has been a full-time employee of that company for a continuous period of not less than five years."

Issue of shares

28. Paragraph 5 of Part II of the principal Schedule (limitation on issue of shares) shall not apply and any shares issued in pursuance of rights conferred under the scheme shall be treated for the purposes of that paragraph as issued otherwise than in pursuance of such rights.

Limitation of rights

29. Paragraphs 1 to 3 of Part III of the principal Schedule shall not apply.

Exercise of rights

30. Paragraph 4 of Part III of the principal Schedule shall have effect as if for the reference to seven years after a right is obtained there were substituted a reference to six months after the time which, under paragraph 25(b) above, is for the purposes of paragraph 23 above the time when repayment is due.

Minimum price of shares

31. Paragraph 6 of Part III of the principal Schedule shall have effect as if the words "90 per cent. of" were inserted before the words "the market value".

Further condition for approval

32. The conditions mentioned in paragraph 1 of Part I of the principal Schedule shall be deemed to include the condition that the scheme must provide for a participant's contributions under the certified contractual savings scheme to be payable under arrangements made with the company of which he is a director or employee and to be of such amounts as to secure as nearly as may be repayment of an amount equal to that for which shares may be acquired in pursuance of rights obtained by him under the share option scheme; and for this purpose the amount of the repayment under the contractual savings scheme shall be determined as mentioned in paragraph 25 above.

Further condition to be complied with by director or employee

33. The conditions specified in Part V of the principal Schedule shall be deemed to include the condition that the director or employee must not, while participating in a scheme to which this Part of this Schedule applies, participate in any share option scheme which is approved under the principal Schedule but to which this Part of this Schedule does not apply nor in any share incentive scheme which is approved under the principal Schedule and to which Part II of this Schedule does not apply.

Commencement

34. This Part of this Schedule shall come into force on such day as the Treasury may by order made by statutory instrument appoint.

PART IV**SUPPLEMENTARY PROVISIONS**

35. Paragraphs 6 to 9 of Part VII of the principal Schedule shall apply as if this Schedule were part of that Schedule.

36. In this Schedule "the principal section" means section 79 of the Finance Act 1972 and "the principal Schedule" means Schedule 1972 c. 41. 12 to that Act.

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Section 21.

APPORTIONMENT OF INCOME ETC. OF CLOSE COMPANIES**PART I****AMENDMENTS OF FINANCE ACT 1972, SCHEDULE 16**

1.—(1) Paragraph 5 of Schedule 16 to the Finance Act 1972 (income tax consequences of apportionment of income of close companies) shall be amended, subject to paragraph 8 below, in accordance with this paragraph.

(2) In sub-paragraph (6) (subsequent distribution to an individual of income previously apportioned to him to be deemed not to form part of his total income) for the words "total income" there shall be substituted the words "income for the purposes of excess liability".

(3) At the end of sub-paragraph (6) there shall be inserted the following sub-paragraph:—

“(6A) In sub-paragraph (6) above 'excess liability' means the excess of liability to income tax over what it would be if all income tax were chargeable at the basic rate to the exclusion of any other rate".

(4) In sub-paragraph (7) (certain amounts specified in paragraph 5 to be taken to consist of the aggregate of the amount concerned and a further sum corresponding to advance corporation tax thereon) in paragraph (c) the word "total" shall be omitted.

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1972 c. 41.

2.—(1) Subject to sub-paragraph (2) below, in the application of paragraph 7 of Schedule 16 to the Finance Act 1972 (consequences of apportionment: advance corporation tax) to a close company which was in liquidation on 6th April 1973, sub-paragraph (6) of that paragraph (the excess of the apportioned amount which remains after making certain deductions to be recoverable as if it were advance corporation tax) shall be omitted.

(2) If at any time the winding-up of a close company which was in liquidation on 6th April 1973 ceases to be proceeded with, sub-paragraph (1) above shall not apply with respect to any accounting period ending at a time when the company is no longer being wound up.

(3) For the purposes of this paragraph a company is in liquidation on 6th April 1973 if, as a result of its being wound up, the new accounting period referred to in section 247(7) of the Taxes Act (commencement of new accounting period where a company is wound up) began before that date and the winding-up was not completed on or before that date.

3. After paragraph 10 of Schedule 16 to the Finance Act 1972 there shall be inserted the following paragraph:—

“10A.—(1) For the purpose of determining whether there is any such excess as is referred to in paragraph 1(2) above, no account shall be taken of a distribution which, in relation to the company making it, is a distribution by virtue only of paragraph (c) of section 233(2) of the Taxes Act (bonus redeemable share capital and bonus securities) unless—

- (a) it is made to a person other than a close company, or
- (b) it is made to a close company and the share capital or security of which it consists is subsequently distributed, by that or any other close company, by a distribution falling within paragraph (b) of section 84(4) of this Act to a person other than a close company.

(2) Where such a distribution as is referred to in sub-paragraph (1) above has occurred (in this sub-paragraph referred to as a ‘bonus distribution’) and, by virtue of paragraph (a) or paragraph (b) of that sub-paragraph, the bonus distribution fails to be taken into account for the purpose of determining whether there is any such excess as is referred to in paragraph 1(2) above, no account shall be taken for that purpose of a qualifying distribution which consists of the repayment of the share capital or, as the case may be, the principal of the security, which constituted the bonus distribution.”

4.—(1) Paragraph 12 of Schedule 16 to the Finance Act 1972 (certain sums regarded as income of a company available for distribution and not as having been applied, or as being applicable, to the requirements of the company’s business) shall be amended in accordance with this paragraph.

(2) At the end of sub-paragraph (1) there shall be inserted the words "and" Sch. 9

(d) in the case of a company which is neither a trading company nor a member of a trading group, any sum expended or applied, or available to be expended or applied, out of the income of the company in or towards the acquisition of an estate or interest in land, or the construction or extension of a building, not being a construction or extension which constitutes an improvement or development of farm land or market garden land".

(3) After sub-paragraph (2) there shall be inserted the following sub-paragraph:—

"(2A) In relation to any loan capital or debt mentioned in sub-paragraph (1)(c) above which was issued or incurred by the company for money borrowed by it for the purpose of financing expenditure on any acquisition, construction or extension falling within sub-paragraph (1)(d) above, the expression 'loan capital' in sub-paragraph (1)(c) above shall be construed as if, in the definition of that expression in section 303(7) of the Taxes Act, the proviso (which has the effect of excluding banks) were omitted".

(4) This paragraph has effect in relation to sum expended or applied, or available to be expended or applied, after 21st March 1973, except where the acquisition, construction or extension concerned is made in pursuance of a contract entered into on or before that date.

PART II

TRANSITIONAL PROVISIONS

5.—(1) The provisions of this paragraph shall apply to—

- (a) franked investment income (within the meaning of section 240 of the Taxes Act) forms part of the distributable profits of a close company for an accounting period which ends on or after 6th October 1971 and before 6th April 1973 (in this paragraph referred to as "the relevant accounting period");
- (b) the total of the distributions of the company for the relevant accounting period determined as at the beginning of 6th April 1973 falls short of the required standard, as determined under section 290 of the Taxes Act; and
- (c) on or after 6th April 1973 a dividend is paid which fails to be included in the distributions of the company for the relevant accounting period.

(2) Subject to sub-paragraph (4) below, for the purpose of determining in a case where this paragraph applies whether there is a shortfall in the company's distributions for the relevant accounting period, the company's distributable investment income for that period, as determined under section 291(3) of the Taxes Act, shall be reduced by a sum equal to whichever is the less of—

- (a) 30 per cent. of the amount by which the franked investment income included in that distributable investment income

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exceeds the total of the company's distributions referred to in sub-paragraph (1)(b) above ; and

(b) $\frac{3}{7}$ ths of the total of the dividends paid on or after 6th April 1973 which fall within sub-paragraph (1)(c) above.

(3) For the purpose of sub-paragraph (2) above, the franked investment income included in a company's distributable investment income for the relevant accounting period means the amount of the franked investment income which, by virtue of subsection (2)(a) of section 291 of the Taxes Act, is included in the company's distributable profits for that period, less—

(a) the amount which, by virtue of paragraph (a) or paragraph (b) of subsection (3) of that section, is deducted from the distributable income of the company for the relevant accounting period in determining its distributable investment income, and

(b) any amount of that franked investment income which, by virtue only of subsection (2) of section 25 of the Finance Act 1971 (companies carrying on insurance, banking, money lending and investment businesses etc.), is treated as estate or trading income in arriving at the required standard as mentioned in that subsection.

1971 c. 68.

(4) If, in a case where this paragraph applies, the close company concerned is neither a trading company nor a member of a trading group and the required standard for the relevant accounting period, as determined under section 290 of the Taxes Act, is equal to so much of the company's distributable income for the relevant accounting period as is not attributable to estate or trading income, sub-paragraphs (2) and (3) above shall have effect as if—

(a) for any reference to the company's distributable investment income there were substituted a reference to the required standard ;

(b) for the reference in sub-paragraph (2) to section 291(3) of the Taxes Act there were substituted a reference to section 290 of that Act ; and

(c) in sub-paragraph (3) the word "less" and paragraphs (a) and (b) were omitted.

(5) In any case where, for the purpose specified in sub-paragraph (2) above, a company's distributable investment income or the required standard itself is reduced by virtue of sub-paragraphs (2) to (4) above, the reduction shall have effect also for the purposes of the other provisions of Chapter III of Part XI of the Taxes Act relating to shortfalls in the distributions of a close company other than section 298(2) of that Act (power of Board, if they see fit, to make a surtax apportionment of the whole of a non-trading company's income up to the amount of the required standard).

(6) Expressions used in this paragraph have the same meanings as in the provisions of Chapter III of Part XI of the Taxes Act relating to shortfalls in the distribution of a close company.

6.—(1) In any case where franked investment income received by a close company before 6th April 1973 forms part of the distributable profits of the company for an accounting period which begins before 6th April 1973 and ends after 5th April 1973 (in this paragraph referred to as a "straddling period") the provisions of this paragraph shall apply, subject to paragraph 7 below, in determining the company's relevant income for the straddling period.

(2) If the whole of the company's relevant income for the straddling period falls to be apportioned by virtue of paragraph 2 of Schedule 16 to the Finance Act 1972, then for the purpose of that apportionment, but not otherwise, the company's distributable investment income for that period, as determined under Part II of that Schedule, shall be reduced by a sum equal to 30 per cent. of the amount of the franked investment income included in that distributable investment income.

(3) If the franked investment income falling within sub-paragraph (1) above exceeds the total of the company's distributions for the straddling period which are paid or made in such part of that period as falls before 6th April 1973, then except, in a case where sub-paragraph (2) above applies, for the purpose of the apportionment referred to in that sub-paragraph, the company's distributable investment income for that period, as determined under Part II of the said Schedule 16, shall be reduced by a sum equal to 30 per cent. of the amount by which the franked investment income included in that distributable investment income exceeds the total of those of the company's distributions for that period which are so paid or made.

(4) For the purposes of this paragraph the franked investment income included in a company's distributable investment income for the straddling period means the amount of the franked investment income falling within sub-paragraph (1) above which, by virtue of paragraph 10 of the said Schedule 16, forms part of the company's distributable profits for that period less—

- (a) the amount which, by virtue of paragraph (a) or paragraph (b) of sub-paragraph (3) of the said paragraph 10, is deducted from the distributable income of the company for that period in determining its distributable investment income, and
- (b) any amount of that franked investment income which, by virtue only of sub-paragraph (5) of the said paragraph 10 (companies carrying on insurance, banking, money lending and investment businesses etc.) is treated as estate or trading income in arriving at the company's relevant income as mentioned in that sub-paragraph.

(5) References in this paragraph to franked investment income (being references to such income received before 6th April 1973) shall be construed in accordance with section 240 of the Taxes Act, and other expressions used in this paragraph have the same meanings as in Schedule 16 to the Finance Act 1972.

7.—(1) If, in a case where paragraph 6 above applies,—

- (a) the close company concerned is neither a trading company nor a member of a trading group, and

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SCH. 9 (b) the company's relevant income for the straddling period, as determined under paragraph 8 of Schedule 16 to the Finance Act 1972, is equal to so much of the company's distributable income for that period as is not attributable to estate or trading income,

1972 c. 41. paragraph 6 above shall have effect subject to the following provisions of this paragraph.

(2) Subject to sub-paragraph (3) below, where sub-paragraph (1) above applies,—

(a) for any reference in paragraph 6 above to the company's distributable investment income there shall be substituted a reference to its relevant income; and

(b) in sub-paragraph (4) of that paragraph, the word "less" and paragraphs (a) and (b) shall be omitted.

(3) If, in relation to a close company, paragraph (b) of paragraph 2(2) of Schedule 23 to the Finance Act 1972 (restriction on advance corporation tax available for set-off in transitional period) has effect as set out in paragraph 5(1) of that Schedule (modifications in relation to close companies in certain cases) then, notwithstanding that paragraph 6 above applies in relation to that company subject to the modifications in sub-paragraph (2) above, in determining for the purposes of the said paragraph (b) (but not for any other purpose) the amount which is to be taken, in accordance with paragraph 9 of Schedule 16 to that Act, as the company's relevant income for the straddling period or any part of that period, sub-paragraph (2) above shall not apply.

(4) In this paragraph "straddling period" has the same meaning as in paragraph 6 above and sub-paragraph (5) of that paragraph shall apply in relation to this paragraph as it applies in relation to that.

8. If, in a case where sub-paragraph (6) of paragraph 5 of Schedule 16 to the Finance Act 1972 applies (subsequent distribution to an individual of income of a close company which has been previously apportioned to him to be deemed not to form part of his total income),—

(a) the later accounting period referred to in that sub-paragraph is an accounting period which begins before 6th April 1973 and ends after 5th April 1973, and

(b) the distribution of apportioned income referred to in that sub-paragraph is made before 6th April 1973,

the amendments of the said paragraph 5 effected by sub-paragraphs (2) and (3) of paragraph 1 above shall not have effect but the said sub-paragraph (6) shall have effect as if for the words "total income" there were substituted the words "income for the purposes of surtax".

9.—(1) In any case where—

(a) the amount of advance corporation tax actually paid by a close company in respect of distributions made in that part of a straddling period following 5th April 1973 exceeds the

amount of advance corporation tax which, by virtue of paragraph 1 of Schedule 23 to the Finance Act 1972, the company is treated as having paid for the purposes of section 85 of that Act, and

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1972 c. 41.

(b) the company makes a claim in that behalf, then, for the purpose of determining the distributable income of the company for the straddling period, the amount of any profits on which corporation tax for that period falls finally to be borne (which, under paragraph 10(2) of Schedule 16 to that Act, is one of the amounts comprised in the company's distributable profits) shall be treated as reduced by an amount equal to the excess referred to in paragraph (a) above.

(2) If, in a case where paragraph 7 of Schedule 23 to the Finance Act 1972 applies in relation to a close company instead of sub-paragraphs (2) and (3) of paragraph 1 of that Schedule,—

(a) the amount of advance corporation tax actually paid by the company in respect of distributions made in an accounting period which includes the whole or any fraction of the second part of the notional straddling period exceeds the amount of advance corporation tax which, by virtue of the said paragraph 7, the company is treated for the purposes of section 85 of that Act as having paid in respect of distributions in that accounting period, and

(b) the company makes a claim in that behalf, then, for the purpose of determining the distributable income of the company for any accounting period falling within paragraph (a) above, the amount of any profits on which corporation tax for that period falls finally to be borne (which, under paragraph 10(2) of Schedule 16 to that Act, is one of the amounts comprised in the company's distributable profits) shall be treated as reduced by an amount equal to the excess referred to in paragraph (a) above.

(3) In this paragraph "distributable income" and "distributable profits" have the meanings assigned to them by paragraph 10(2) of Schedule 16 to the Finance Act 1972; in sub-paragraph (1) above "straddling period" has the same meaning as in paragraph 6 above, and in sub-paragraph (2) above "the second part of the notional straddling period" has the same meaning as in paragraph 7 of Schedule 23 to the Finance Act 1972.

SCHEDULE 10

Section 22.

DISTRIBUTIONS TO EXEMPT FUNDS, ETC.

1. In this Schedule "the principal section" means section 22 of this Act.

2. For the purposes of the principal section two or more holdings are associated if they were acquired by persons acting in concert or under arrangements made by any person.

3. For the purposes of the principal section there shall be attributed—

(a) to the distributions made by a company at any time (whether or not later than 5th April 1973) in respect of any class

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of shares, securities or rights such of its relevant profits arising after the date of acquisition and before that time as remain after allowing for earlier distributions made in respect of that or any other class of shares, securities or rights, and for distributions made at or to be made after that time in respect of other classes of shares, securities or rights ; and

(b) to any part of a distribution made at any time to which a person is entitled by virtue of any part of his holding of any class of shares, securities or rights, such proportion of the profits attributable under sub-paragraph (a) above to the distributions made at that time in respect of that class as corresponds to that part of his holding.

4. For the purposes of paragraph 3 above profits arising in part of an accounting period shall be taken to be a proportionate part of the profits arising in the whole of the accounting period except where a different method of arriving at the profits arising in that part can be shown to be fair and reasonable.

5. For the purposes of this Schedule the relevant profits of a company are, subject to paragraph 6 below, its profits computed on a commercial basis after allowing for any provision properly made for corporation tax ; and the computation shall be made without regard to any capital gains or losses or to any such amount as is mentioned in subsection (5) of the principal section, and—

(a) shall include franked investment income received from any company not related to the first-mentioned company ; and
 (b) shall exclude group income and franked investment income received from a company related to the first-mentioned company.

6. There shall be treated as included in the relevant profits of a company the appropriate portion of the relevant profits of any company related to it.

7. For the purposes of this Schedule a company (in this paragraph referred to as “the owned company”) is related to another company (in this paragraph referred to as “the owning company”) if—

(a) the owning company owns not less than 10 per cent. of any one class of shares in the owned company ; or
 (b) any company related to the owning company owns not less than 10 per cent. of any one class of shares in the owned company ;

and the appropriate proportion of the relevant profits of a related company is that proportion of those profits which the owning company would receive by virtue of the shares, securities or rights owned by it, if all the relevant profits of the owned company were distributed and, so far as received directly or indirectly by a company related to the owning company, were distributed by that related company, no account being taken of any profits arising at a time when the owned company was not related to the owning company.

SCHEDULE 11

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AMENDMENTS RELATING TO TAX AVOIDANCE

Section 25.

1.—(1) For subsection (4) of section 460 of the Taxes Act (cancellation of tax advantage) there shall be substituted the following subsections:—

“ (4) Where, by virtue of an assessment under subsection (3) above to counteract a tax advantage obtained in circumstances falling within paragraph D or paragraph E of section 461 below and consisting of the avoidance of a charge to income tax, income tax has been paid by any person on an amount specified in the assessment and it appears to the Board that, as a result of that payment, it is just and reasonable in the circumstances that an amount should be treated as having been paid by way of advance corporation tax, the Board shall serve a notice in writing under subsection (4A) below on every company which appears to them to be concerned in the transaction or transactions in consequence of which the tax advantage was obtained.

(4A) A notice under this subsection—

- (a) shall provide that, for the purposes of section 85 of the Finance Act 1972 (but not for the purposes of entitling 1972 c. 41. any person to a tax credit under section 86 thereof), such company or each of such companies as may be specified in the notice is to be treated as having paid, on such date as may be so specified, such amount of advance corporation tax as may be so specified in relation to that company ;
- (b) shall specify the amount which is equal to income tax at the basic rate on the amount on which income tax has been paid as mentioned in subsection (4) above ; and
- (c) may contain such supplementary or incidental directions as appear to the Board to be appropriate ;

but the total amount of advance corporation tax which, by virtue of paragraph (a) above, a notice under this subsection may treat as having been paid shall not exceed the amount specified in accordance with paragraph (b) above.

(4B) If, in a case falling within subsection (4) above, it does not appear to the Board that any amount should be treated as having been paid by way of advance corporation tax, the Board shall serve on every company which appears to them to be concerned in the transaction or transactions in consequence of which the tax advantage was obtained a notice in writing informing the company of the Board's decision that no amount is to be treated as having been paid by way of advance corporation tax.”

(2) This paragraph has effect with respect to consideration received after 5th April 1973 and, where the circumstances in which the tax advantage is obtained fall within sub-paragraph (2) of paragraph E of section 461 of the Taxes Act, with respect to the repayment after that date of share capital received on or before that date.

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2. In section 461 of the Taxes Act, paragraph A shall be amended as follows:—

- (a) for the words “ being entitled by reason of ” there shall be substituted the words “ receives an abnormal amount by way of dividend, and the amount so received is taken into account for any of the following purposes ” ; and
- (b) at the end of paragraph (c) there shall be added the words “ or
 - (d) the application of franked investment income in calculating a company’s liability to pay advance corporation tax, or
 - (e) the application of a surplus of franked investment income under section 254 or section 255 of this Act, or
 - (f) the computation of profits or gains out of which are made payments falling within section 52 or section 53 of this Act, or
 - (g) the deduction from or set-off against income of interest under section 75 of the Finance Act 1972 ” ; and
- (c) the words from “ to recover tax ” to the end of the paragraph shall be omitted.

3.—(1) After section 462 of the Taxes Act there shall be inserted the following section:—

“ 462A.—(1) A company on which a notice has been served under subsection (4A) or subsection (4B) of section 460 above may within thirty days by notice to the Board appeal to the Special Commissioners on the ground that it is just and reasonable in the circumstances that the company should be treated, for the purposes specified in the said subsection (4A), as having paid an amount of advance corporation tax or, as the case may require, a greater amount of advance corporation tax than is specified in the notice.

(2) Notwithstanding that a company on which a notice has been served as mentioned in subsection (1) above has made no appeal under that subsection, the company—

- (a) shall be entitled, to the same extent as the appellant, to receive notice of, and to appear and be heard in, any proceedings arising from the notice under subsection (1) above, whether the proceedings are before the Special Commissioners, by way of further appeal or otherwise ;
- (b) if it does appear, shall be treated as a party to the proceedings and as having the same rights in respect of those proceedings and any decision made therein as the appellant ; and
- (c) whether or not it so appears, shall be bound by any order made in any such proceedings ;

1970 c. 9.
and no agreement under section 54 of the Taxes Management Act 1970 (settling of appeals by agreement) shall have effect

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except with the consent of each company which, by virtue of this subsection, would have been entitled to appear and be heard on the appeal if it had been proceeded with.

(3) On an appeal under subsection (1) above, the Special Commissioners—

- (a) may cancel or vary any notice served under section 460(4A) above, or
- (b) if no such notice was served, may by order make any provision which could have been made by the Board in such a notice."

(2) This paragraph has effect on and after 6th April 1973.

4.—(1) In section 466 of the Taxes Act (meaning of "tax advantage")—

- (a) in subsection (1) after the words "avoidance or reduction of" there shall be inserted the words "a charge to tax or"; and
- (b) subsection (2) (which relates to income tax for which a company had to account under section 232(1) of the Taxes Act) shall cease to have effect.

(2) This paragraph has effect for the year 1973-74 and subsequent years of assessment.

5.—(1) In section 467 of the Taxes Act (interpretation), in subsection (1), after the words "references to dividends include references" there shall be inserted the words "to other qualifying distributions (as defined in section 84(4) of the Finance Act 1972) and" 1972 c. 41

(2) In subsection (3) of that section, in paragraph (b) (amount) received by way of dividend to be treated as abnormal if it substantially exceeds a normal return on the price paid for the securities for the words "price paid for the securities" there shall be substituted the words "consideration provided by the recipient for the relevant securities, that is to say, the securities in respect of which the dividend was received and, if those securities are derived from securities previously acquired by the recipient, the securities which were previously acquired; and for the purposes of this paragraph

- (i) if the consideration provided by the recipient for any of the relevant securities was in excess of their market value at the time he acquired them, or if no consideration was provided by him for any of the relevant securities, the recipient shall be taken to have provided for those securities consideration equal to their market value at the time he acquired them; and
- (ii) in determining whether an amount received by way of dividend exceeds a normal return, regard shall be had to the length of time previous to the receipt of that amount that the recipient first acquired any of the relevant securities and to any dividends and other distributions made in respect of them during that time".

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6. In subsection (6) of section 471 of the Taxes Act (definitions relating to provisions about purchase and sale of securities),—

- (a) in paragraph (a) for the word "dividend" there shall be substituted the words "qualifying distribution and any dividend which is not a qualifying distribution, and in applying references to interest in relation to a qualifying distribution 'gross interest' means the qualifying distribution together with the tax credit to which the recipient of the distribution is entitled in respect of it and 'net interest' means the qualifying distribution exclusive of any such tax credit"; and
- (b) at the end of the subsection there shall be added the words "and in paragraph (a) above 'qualifying distribution' and 'tax credit' have the same meanings as in Part V of the Finance Act 1972".

1972 c. 41.

7. At the end of section 474 of the Taxes Act (application of provisions about purchase and sale of securities to persons other than dealers in securities) there shall be added the following subsection:—

"(3) In applying references in this section to interest in relation to a qualifying distribution, references to any tax paid on or in respect of an amount shall be construed as references to so much of any related tax credit as is attributable to that amount; and for this purpose 'related tax credit', in relation to an amount, means the tax credit to which, under section 86 of the Finance Act 1972, the recipient of the distribution of which that amount is a proportion is entitled."

8. In section 477 of the Taxes Act (manufactured dividends: treatment of tax deducted)—

- (a) in subsection (1), for the words "Schedule 9 to this Act" there shall be substituted the words "Schedule 20 to the Finance Act 1972";
- (b) in subsection (6) (interpretation), for the word "dividend" there shall be substituted the words "qualifying distribution, as defined in section 84(4) of the Finance Act 1972, and any dividend which does not fall within that definition"; and
- (c) at the end of subsection (6) there shall be inserted the following subsection:—

"(6A) In the application of this section in a case where the references in subsection (1) above to a periodical payment of interest are construed as references to a qualifying distribution, subsection (2) above shall be omitted."

SCHEDULE 12

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Section 28.

GROUP RELIEF

PART I

PROFITS OR ASSETS AVAILABLE FOR DISTRIBUTION

1.—(1) For the purposes of section 28 of this Act and this Schedule, an equity holder of a company is any person who—

- (a) holds ordinary shares in the company, or
- (b) is a loan creditor of the company in respect of a loan which is not a normal commercial loan,

and any reference in that section to profits or assets available for distribution to a company's equity holders does not include a reference to any profits or assets available for distribution to any equity holder otherwise than as an equity holder.

(2) For the purposes of sub-paragraph (1)(a) above "ordinary shares" means all shares other than fixed-rate preference shares.

(3) In this Schedule "fixed-rate preference shares" means shares which—

- (a) are issued for consideration which is or includes new consideration ; and
- (b) do not carry any right either to conversion into shares or securities of any other description or to the acquisition of any additional shares or securities ; and
- (c) do not carry any right to dividends other than dividends which—
 - (i) are of a fixed amount or at a fixed rate per cent. of the nominal value of the shares, and
 - (ii) represent no more than a reasonable commercial return on the new consideration received by the company in respect of the issue of the shares ; and
- (d) on repayment do not carry any rights to an amount exceeding that new consideration except in so far as those rights are reasonably comparable with those general for fixed dividend shares listed in the Official List of The Stock Exchange.

(4) Section 303(7) of the Taxes Act (definition of "loan creditor" for purposes of provisions relating to close companies) shall apply for the purposes of sub-paragraph (1)(b) above as it applies for the purposes of the Chapter specified therein, except that the proviso (which has the effect of excluding banks) shall be omitted.

(5) In sub-paragraph (1)(b) above "normal commercial loan" means a loan of or including new consideration and—

- (a) which does not carry any right either to conversion into shares or securities of any other description or to the acquisition of additional shares or securities ; and

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- (b) which does not entitle the loan creditor to any amount by way of interest which depends to any extent on the results of the company's business or any part of it or on the value of any of the company's assets or which exceeds a reasonable commercial return on the new consideration lent ; and
- (c) in respect of which the loan creditor is entitled, on repayment, to an amount which either does not exceed the new consideration lent or is reasonably comparable with the amount generally repayable (in respect of an equal amount of new consideration) under the terms of issue of securities listed in the Official List of The Stock Exchange.

(6) Notwithstanding anything in sub-paragraphs (1) to (5) above but subject to sub-paragraph (7) below, where—

- (a) any person has, directly or indirectly, provided new consideration for any shares or securities in the company, and
- (b) that person, or any person connected with him, uses for the purposes of his trade assets which belong to the company and in respect of which there is made to the company any of the allowances specified in paragraphs (a) to (d) of section 31(6) of this Act (substituting, for this purpose, a reference to the company for any reference in those paragraphs to the partnership),

then, for the purposes of this Schedule, that person, and no other, shall be treated as being an equity holder in respect of those shares or securities and as being beneficially entitled to any distribution of profits or assets attributable to those shares or securities.

(7) In any case where sub-paragraph (6) above applies in relation to a bank in such circumstances that—

- (a) the only new consideration provided by the bank as mentioned in paragraph (a) of that sub-paragraph is provided in the normal course of its banking business by way of a normal commercial loan as defined in sub-paragraph (5) above ; and
- (b) the cost to the company concerned of the assets falling within paragraph (b) of that sub-paragraph which are used as mentioned in that paragraph by the bank or a person connected with the bank is less than the amount of that new consideration,

references in sub-paragraph (6) above, other than the reference in paragraph (a) thereof, to shares or securities in the company shall be construed as a reference to so much only of the loan referred to in paragraph (a) above as is equal to the cost referred to in paragraph (b) above.

(8) In this paragraph " new consideration " has the same meaning as in Part X of the Taxes Act and any question whether one person is connected with another shall be determined in accordance with section 533 of that Act.

2.—(1) Subject to the following provisions of this Part of this Schedule, for the purposes of section 28 of this Act, the percentage to which one company is beneficially entitled of any profits available for distribution to the equity holders of another company means the percentage to which the first company would be so entitled in the relevant accounting period on a distribution in money to those equity holders of—

- (a) an amount of profits equal to the total profits of the other company which arise in that accounting period (whether or not any of those profits are in fact distributed), or
- (b) if there are no profits of the other company in that accounting period, profits of £100,

and in the following provisions of this Part of this Schedule, that distribution is referred to as "the profit distribution".

(2) For the purposes of the profit distribution, it shall be assumed that no payment is made by way of repayment of share-capital or of the principal secured by any loan unless that payment is a distribution.

(3) Subject to sub-paragraph (2) above, where an equity holder is entitled as such to a payment of any description which, apart from this sub-paragraph, would not be treated as a distribution, it shall nevertheless be treated as an amount to which he is entitled on the profit distribution.

3.—(1) Subject to the following provisions of this Part of this Schedule, for the purposes of section 28 of this Act the percentage to which one company would be beneficially entitled of any assets of another company available for distribution to its equity holders on a winding-up means the percentage to which the first company would be so entitled if the other company were to be wound up and on that winding-up the value of the assets available for distribution to its equity holders (that is to say, after deducting any liabilities to other persons) were equal to—

- (a) the excess, if any, of the total amount of the assets of the company, as shown in the balance sheet relating to its affairs as at the end of the relevant accounting period, over the total amount of those of its liabilities as so shown which are not liabilities to equity holders as such, or
- (b) if there is no such excess or if the company's balance sheet is prepared to a date other than the end of the relevant accounting period, £100.

(2) In the following provisions of this Part of this Schedule, a winding-up on the basis specified in sub-paragraph (1) above is referred to as "the notional winding-up".

(3) If, on the notional winding-up, an equity holder would be entitled as such to an amount of assets of any description which, apart from this sub-paragraph, would not be treated as a distribution of assets, it shall nevertheless be treated, subject to sub-paragraph (4) below, as an amount to which the equity holder is entitled on the distribution of assets on the notional winding-up.

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(4) If an amount (in this sub-paragraph referred to as "the returned amount") which corresponds to the whole or any part of the new consideration provided by an equity holder of a company for any shares or securities in respect of which he is an equity holder is applied by the company, directly or indirectly, in the making of a loan to, or in the acquisition of any shares or securities in, the equity holder or any person connected with him, then, for the purposes of this Part of this Schedule,—

- (a) the total amount referred to in sub-paragraph (1)(a) above shall be taken to be reduced by a sum equal to the returned amount ; and
- (b) the amount of assets to which the equity holder is beneficially entitled on the notional winding-up shall be taken to be reduced by a sum equal to the returned amount.

(5) In sub-paragraph (4) above "new consideration" has the same meaning as in Part X of the Taxes Act and any question whether one person is connected with another shall be determined in accordance with section 533 of that Act.

4.—(1) This paragraph applies if any of the equity holders—

- (a) to whom the profit distribution is made, or
- (b) who is entitled to participate in the notional winding-up, holds, as such an equity holder, any shares or securities which carry rights in respect of dividend or interest or assets on a winding-up which are wholly or partly limited by reference to a specified amount or amounts (whether the limitation takes the form of the capital by reference to which a distribution is calculated or operates by reference to an amount of profits or assets or otherwise).

(2) Where this paragraph applies, there shall be determined—

- (a) the percentage of profits to which, on the profit distribution, the first company referred to in paragraph 2(1) above would be entitled, and
- (b) the percentage of assets to which, on the notional winding-up, the first company referred to in paragraph 3(1) above would be entitled,

if, to the extent that they are limited as mentioned in sub-paragraph (1) above, the rights of every equity holder falling within that sub-paragraph (including the first company concerned if it is such an equity holder) had been waived.

(3) If, on the profit distribution, the percentage of profits determined as mentioned in sub-paragraph (2)(a) above is less than the percentage of profits determined under paragraph 2(1) above without regard to that sub-paragraph, the lesser percentage shall be taken for the purposes of section 28 of this Act to be the percentage of profits to which, on the profit distribution, the first company referred to in paragraph 2(1) above would be entitled as mentioned in that paragraph.

(4) If, on the notional winding-up, the percentage of assets determined as mentioned in sub-paragraph (2)(b) above is less than the percentage of assets determined under paragraph 3(1) above without regard to that sub-paragraph, the lesser percentage shall be taken for the purposes of section 28 of this Act to be the percentage to which, on the notional winding-up, the first company referred to in paragraph 3(1) above would be entitled of any assets of the other company available for distribution to its equity holders on a winding-up.

5.—(1) This paragraph applies if, at any time in the relevant accounting period, any of the equity holders—

(a) to whom the profit distribution is made, or

(b) who is entitled to participate in the notional winding-up, holds, as such an equity holder, any shares or securities which carry rights in respect of dividend or interest or assets on a winding-up which are of such a nature (as, for example, if any shares will cease to carry a right to a dividend at a future time) that if the profit distribution or the notional winding-up were to take place in a different accounting period the percentage to which, in accordance with the preceding provisions of this Part of this Schedule, that equity holder would be entitled of profits on the profit distribution or of assets on the notional winding-up would be different from the percentage determined in the relevant accounting period.

(2) Where this paragraph applies, there shall be determined—

(a) the percentage of profits to which, on the profit distribution, the first company referred to in paragraph 2(1) above would be entitled, and

(b) the percentage of assets to which, on the notional winding-up, the first company referred to in paragraph 3(1) above would be entitled,

if the rights of the equity holders in the relevant accounting period were the same as they would be in the different accounting period referred to in sub-paragraph (1) above.

(3) If in the relevant accounting period an equity holder holds, as such, any shares or securities in respect of which arrangements exist by virtue of which, in that or any subsequent accounting period, the equity holder's entitlement to profits on the profit distribution or to assets on the notional winding-up could be different as compared with his entitlement if effect were not given to the arrangements, then for the purposes of this paragraph—

(a) it shall be assumed that effect would be given to those arrangements in a later accounting period, and

(b) those shares or securities shall be treated as though any variation in the equity holder's entitlement to profits or assets resulting from giving effect to the arrangements were the result of the operation of such rights attaching to the shares or securities as are referred to in sub-paragraph (1) above.

(4) Sub-paragraphs (3) and (4) of paragraph 4 above shall apply for the purposes of this paragraph as they apply for the purposes

SCH. 12 of that paragraph and, accordingly, references therein to sub-paragraphs (2)(a) and (2)(b) of that paragraph shall be construed as references to sub-paragraphs (2)(a) and (2)(b) of this paragraph.

(5) In any case where paragraph 4 above applies as well as this paragraph, paragraph 4 above shall be applied separately (in relation to the profit distribution and the notional winding-up)—

- (a) on the basis specified in sub-paragraph (2) above, and
- (b) without regard to that sub-paragraph,

and sub-paragraphs (3) and (4) of paragraph 4 above shall apply accordingly in relation to the percentages so determined as if for the word "lesser" there were substituted the word "lowest".

6. For the purposes of section 28 of this Act and paragraphs 2 to 5 above—

- (a) the percentage to which one company is beneficially entitled of any profits available for distribution to the equity holders of another company, and

- (b) the percentage to which one company would be beneficially entitled of any assets of another company on a winding-up,

means the percentage to which the first company is, or would be, so entitled either directly or through another body corporate or other bodies corporate or partly directly and partly through another body corporate or other bodies corporate.

7.—(1) In this Part of this Schedule "the relevant accounting period" means—

- (a) in a case falling within subsection (2) of section 28 of this Act, the accounting period current at the time in question; and

- (b) in a case falling within subsection (3) of that section, the accounting period in relation to which the share in the consortium falls to be determined.

(2) For the purposes of this Part of this Schedule, a loan to a company shall be treated as a security, whether or not it is a secured loan, and, if it is a secured loan, regardless of the nature of the security.

PART II

TRANSITIONAL PROVISIONS

8.—(1) This paragraph shall apply in any case where—

- (a) immediately before 6th March 1973, one company (in this paragraph referred to as "the subsidiary company") was, for the purposes of the enactments relating to group relief, a 75 per cent. or a 90 per cent. subsidiary of another company (in this paragraph referred to as "the parent company"); and

- (b) by virtue of section 28 or section 29 of this Act the subsidiary company ceased on that date to be such a subsidiary for the purposes of those enactments.

(2) Subject to paragraph 11 below, if this paragraph applies then, with respect to any period beginning on 6th March 1973 and ending before 1st April 1974, the subsidiary company shall be treated for the purposes of the enactments relating to group relief as continuing to be a 75 per cent. or, as the case may be, a 90 per cent. subsidiary of the parent company if—

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- (a) immediately before 1st April 1974 the subsidiary company is such a subsidiary for the purposes of those enactments; and
- (b) throughout that period the subsidiary company would have been such a subsidiary for the purposes of those enactments if sections 28 and 29 of this Act had not been passed.

9.—(1) This paragraph shall apply in any case where, immediately before 6th March 1973, a company was a member of a consortium for the purposes of the enactments relating to group relief and—

- (a) by virtue of section 28 of this Act, the company's share in the consortium is on that date less than it was before it; or
- (b) by virtue of subsection (2) of section 29 of this Act, on that date a trading company or holding company which is owned by the consortium or a trading company which is a 75 per cent. subsidiary of a holding company which is owned by the consortium ceases to be able to surrender relief to members of the consortium.

(2) Subject to paragraph 11 below, if this paragraph applies then, with respect to any period beginning on 6th March 1973 and ending before 1st April 1974, the member's share in the consortium shall be treated for the purposes of the enactments relating to group relief as of the same magnitude as it was immediately before 6th March 1973 and the trading company or the holding company, as the case may be, shall continue to be entitled to surrender relief to members of the consortium if—

- (a) throughout that period there is no variation in the percentage of the ordinary share capital of the surrendering company or, as the case may be, the holding company through which the surrendering company is owned, which is beneficially owned by that member; and
- (b) immediately before 1st April 1974 the member's share in the consortium (determined in accordance with section 28 of this Act) is of the same magnitude as it was immediately before 6th March 1973; and
- (c) immediately before 1st April 1974 subsection (2) of section 29 of this Act does not apply in relation to the surrendering company.

10.—(1) This paragraph shall apply with respect to claims for group relief in respect of any amount which is attributable—

- (a) to first-year allowances, within the meaning of Chapter 1 of Part III of the Finance Act 1971, in respect of expenditure incurred by the surrendering company on the provision of machinery or plant, or

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1968 c. 3.
1971 c. 68.

(b) to writing-down allowances, within the meaning of Chapter II of Part I of the Capital Allowances Act 1968, or, as the case may require, Chapter I of Part III of the Finance Act 1971, in respect of expenditure incurred by the surrendering company on the provision of machinery or plant, or

(c) to initial allowances under section 56 of the Capital Allowances Act 1968 (in respect of expenditure on works in connection with mines, etc.) in respect of expenditure incurred by the surrendering company and falling within section 52(1) of the Finance Act 1971 (expenditure incurred on or after 27th October 1970 on the construction of works in a development area or Northern Ireland), or

(d) to allowances under section 91 of the Capital Allowances Act 1968 in respect of expenditure incurred by the surrendering company on scientific research,

where the expenditure is incurred under a contract entered into by the surrendering company before 6th March 1973.

(2) Notwithstanding anything in section 28 or section 29 of this Act or in the preceding provisions of this Schedule, but subject to paragraph 11 below, group relief may be claimed in respect of any such amount as is referred to in sub-paragraph (1) above if—

(a) immediately before 6th March 1973 the surrendering company and the company claiming relief were members of a group of companies and, throughout the period beginning on that date and ending at the end of the accounting period in respect of which the claim is made, there is no reduction in the rights of the parent company with respect to the matters specified in paragraphs (a) and (b) of sub-section (2) of section 28 of this Act, or

(b) immediately before 6th March 1973 the company claiming relief was a member of a consortium and, throughout the period beginning on that date and ending at the end of the accounting period in respect of which the claim is made, there is no variation in the percentage of the ordinary share capital of the company owned by the consortium which is beneficially owned by that member and no reduction in the rights of that member (in respect of the company owned by the consortium) with respect to the matters specified in paragraphs (b) and (c) of sub-section (3) of section 28 of this Act,

and, in either case, no such arrangements as are specified in sub-section (1) or subsection (2) of section 29 of this Act come into existence after 5th March 1973 with respect to any of the companies concerned and no variation is made in any such arrangements which are in existence on that date with respect to any of those companies.

(3) For the purposes of sub-paragraph (2)(a) above “the parent company” means the company of which another member of the group referred to in that sub-paragraph was, immediately before

6th March 1973, a 75 per cent. subsidiary, and the rights of the parent company referred to in that paragraph are—

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- (a) if the parent company is either the surrendering company or the company claiming relief, its rights in the other company; and
- (b) in any other case, its rights in both the surrendering company and the company claiming relief.

(4) For the purposes of this paragraph an amount which the claimant company claims by way of group relief shall be treated as attributable to an allowance falling within any of paragraphs (a) to (d) of sub-paragraph (1) above to the extent that that amount would not have been available for surrender by the surrendering company if no such allowance had been available to the surrendering company in respect of the expenditure concerned.

11.—(1) Sub-paragraph (2) of paragraph 8, sub-paragraph (2) of paragraph 9 or, as the case may be, sub-paragraph (2) of paragraph 10 above shall not apply if, during the period referred to in that sub-paragraph,—

- (a) there is a major change in the nature or conduct of a trade or business carried on by the relevant company; or
- (b) the relevant company sets up and commences a trade or business which it did not carry on immediately before 6th March 1973.

(2) Sub-paragraph (2) of paragraph 8 or, as the case may be, sub-paragraph (2) of paragraph 9 above shall not apply if, during the period referred to in that sub-paragraph, the relevant company ceases to carry on a trade, in whole or in part, and a successor company begins to carry it on.

(3) In sub-paragraphs (1) and (2) above "the relevant company" means,—

- (a) in relation to sub-paragraph (2) of paragraph 8 above, the subsidiary company, as defined in that paragraph; and
- (b) in relation to sub-paragraph (2) of paragraph 9 above, the trading company or the holding company referred to in that sub-paragraph; and
- (c) in relation to sub-paragraph (2) of paragraph 10 above,—

(i) if the claim for group relief is attributable to an allowance falling within paragraph (a) or paragraph (b) of sub-paragraph (1) of that paragraph and the machinery or plant to which the allowance relates is brought into use on or before 6th March 1978, the company claiming group relief; and

(ii) in any other case, either the company claiming group relief or the company which, if this paragraph did not apply, would be the surrendering company.

(4) In paragraph (a) of sub-paragraph (1) above "major change in the nature or conduct of a trade or business" has the same meaning as in subsection (1) of section 101 of the Finance Act 1972 1972 c. 41

SCH. 12 (change in ownership of company: calculation and treatment of advance corporation tax).

(5) For the purposes of sub-paragraph (2) above, a company is a successor company in relation to the relevant company if the circumstances are such that—

- (a) section 252 of the Taxes Act (company reconstructions without change of ownership) applies in relation to the relevant company and the other company as the predecessor and the successor within the meaning of that section; or
- (b) the two companies are connected with each other within the terms of section 533 of the Taxes Act.

Section 33.
1972 c. 41.

SCHEDULE 13

AMENDMENT OF SECTION 92 OF FINANCE ACT 1972 AND CONSEQUENTIAL AMENDMENT OF OTHER PROVISIONS

Amendment of section 92

1. Section 92 of the Finance Act 1972 shall be amended as follows.

2. In subsection (1) for the words from the beginning to "paragraph (b) above" there shall be substituted the words "Where a company (in this section referred to as 'the surrendering company') has paid an amount of advance corporation tax in respect of a dividend or dividends paid by it in an accounting period and the advance corporation tax has not been repaid, it may, on making a claim, surrender the benefit of the whole or part of that amount".

3. In subsections (2), (6) and (7) the word "surplus" shall be omitted wherever it occurs.

4. In subsection (2)—

- (a) for the words "subsection (4)" there shall be substituted the words "subsections (3A) and (4)"; and
- (b) for the words "subsection (1)(b)" (in both places) there shall be substituted the words "subsection (1)".

5. After subsection (3) there shall be inserted the following subsection:—

"(3A) No advance corporation tax which a subsidiary is treated as having paid by virtue of subsection (2) above shall be set against the subsidiary's liability to corporation tax under subsection (3) of section 85 above; but in determining for the purposes of subsections (3) and (4) of that section what (if any) amount of surplus advance corporation tax there is in any accounting period of a subsidiary, an amount so treated as having been paid shall be set against its liability to corporation tax before any advance corporation tax paid in respect of any distribution made by the subsidiary."

6. In subsection (5) for the word "two" there shall be substituted the word "six".

7. In subsection (8) after the words "United Kingdom; and" there shall be inserted the words "subject to subsection (9) below".

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8. At the end of the section there shall be added the following subsections:—

"(9) Notwithstanding that, apart from this subsection, one company (in this subsection referred to as 'the subsidiary company') would at any time, by virtue of subsection (8) above, be a subsidiary of another company (in this subsection referred to as 'the parent company') for the purposes of this section, the subsidiary company shall not be treated at that time as a subsidiary for those purposes—

(a) if arrangements are in existence by virtue of which any person has or could obtain, or any persons together have or could obtain, control of the subsidiary company but not of the parent company, and

(b) unless the following conditions are also fulfilled, namely,—

(i) that the parent company is beneficially entitled to more than 50 per cent. of any profits available for distribution to equity holders of the subsidiary company; and

(ii) that the parent company would be beneficially entitled to more than 50 per cent. of any assets of the subsidiary company available for distribution to its equity holders on a winding-up.

(10) In subsection (9)(a) above, 'control' has the meaning assigned to it by section 534 of the Taxes Act.

(11) Part I of Schedule 12 to the Finance Act 1973 shall have effect for the purposes of subsection (9)(b) above, subject to the following modifications:—

(a) for any reference therein to section 28 of that Act there shall be substituted a reference to subsection (9)(b) above; and

(b) paragraph 7(1) shall be omitted and for any reference in that Part to the relevant accounting period there shall be substituted a reference to the accounting period current at the time in question."

Consequential amendments

9. In section 90(3) of the Finance Act 1972 after the words "for 1972 c. 41 the next accounting period" there shall be inserted the words "on the benefit of which could be surrendered under section 92 below".

10. Paragraph 7(7) of Schedule 16 to that Act shall cease to have effect.

11. In paragraph 9 of Schedule 23 to that Act for the words from the beginning to "but those provisions" there shall be substituted the words "The restrictions imposed by the preceding provisions of

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this Schedule on the amount of advance corporation tax which a company may set against its liability to corporation tax under section 85 of this Act shall, with the necessary modifications, apply in determining the amount of advance corporation tax of which it may surrender the benefit under section 92 of this Act, but this provision"; and for the words "such surplus" (in the last place where they occur) there shall be substituted the words "advance corporation tax".

Section 34.

SCHEDULE 14

MINOR AMENDMENTS OF PART V OF FINANCE ACT 1972

1972 c. 41.

1. Part V of the Finance Act 1972 shall be amended in accordance with the following provisions of this Schedule.
2. In subsection (1) and subsection (2) of section 95 before the words "the corporation tax charged" there shall be inserted the words "the company may claim that".
3. In section 96(1) after the words "of this section" there shall be inserted the words "the body may claim that".
4. Any power which the inspector may exercise under paragraph 19 of Schedule 16 may be exercised by him for the purposes of sections 95 or 96 as amended by the preceding paragraphs.
5. In section 103(5) for the words preceding the paragraphs there shall be substituted the words "Where the rate of advance corporation tax for any financial year differs from the rate last fixed"; and
 - (a) in paragraph (a) for the words "in respect of the distribution" there shall be substituted the words "in respect of a distribution made in that financial year on or before 5th April"; and
 - (b) in paragraph (b) for the words "if the distribution is made" there shall be substituted the words "if a distribution is made on or before 5th April".
6. In paragraph 10(1) of Schedule 22, in the words quoted from Part X of the Taxes Act "the company" shall in each case be substituted for "a company".
7. In paragraph 11 of Schedule 23—
 - (a) in sub-paragraph (2) for the words "6th April" there shall be substituted the words "5th April"; and
 - (b) at the end of sub-paragraph (5) there shall be added the words "and references to a distribution period shall be construed in accordance with sub-paragraph (6) of paragraph 2 above, whether or not the company is one to which that paragraph applies".

SCHEDULE 15

Section 38.

TERRITORIAL EXTENSION OF
CHARGE TO TAX—SUPPLEMENTARY PROVISIONS*Appeals*

1. In section 31(3) of the Taxes Management Act 1970 (appeals 1970 c. 9. to Special Commissioners) after paragraph (b) there shall be inserted the words "or

(c) is made by virtue of section 38 of the Finance Act 1973 and is not an assessment to tax under Schedule E."

Information

2. The holder of any licence granted under the Petroleum (Production) Act 1934 shall, if required to do so by a notice served on him by an inspector, give to the inspector within the time limited by the notice (which shall not be less than thirty days) such particulars as may be required by the notice of—

- (a) transactions in connection with activities authorised by the licence as a result of which any person is or might be liable to tax by virtue of section 38 of this Act; and
- (b) emoluments paid or payable in respect of duties performed in an area in which those activities may be carried on under the licence and the persons to whom they were paid or are payable;

and shall take reasonable steps to obtain the information necessary to enable him to comply with the notice.

3. In section 98 of the Taxes Management Act 1970 (penalty for failure to furnish information) there shall be added in the first column of the Table the words "Paragraph 2 of Schedule 15 to the Finance Act 1973."

Collection

4.—(1) Subject to the following provisions of this Schedule, where any tax is assessed by virtue of section 38 of this Act on a person not resident in the United Kingdom in respect of—

- (a) profits or gains from activities authorised, or carried on in connection with activities authorised, by a licence granted under the Petroleum (Production) Act 1934, or
- (b) profits or gains from, or chargeable gains accruing on the disposal of, exploration or exploitation rights connected with activities so authorised or carried on,

then, if the tax remains unpaid later than thirty days after it has become due and payable, the Board may serve a notice on the holder of the licence stating particulars of the assessment, the amount remaining unpaid and the date when it became payable, and requiring the holder of the licence to pay that amount, together with any interest due thereon under section 86 of the Taxes Management Act 1970, within thirty days of the service of the notice.

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(2) Any amount which a person is required to pay by a notice under this paragraph may be recovered from him as if it were tax due and duly demanded from him; and he may recover any such amount paid by him from the person on whom the assessment was made.

5. Paragraph 4 above does not apply to any assessment to tax under Schedule E.

6. Paragraph 4 above does not apply if the profits or gains arose or the chargeable gains accrued to the person on whom the assessment is made in consequence of a contract made by the holder of the licence before 23rd March 1973, unless he is a person connected with the holder within the meaning of section 533 of the Taxes Act or the contract was substantially varied on or after that date.

7. Where, on an application made by a person who will or might become liable to tax which, if remaining unpaid, could be recovered under paragraph 4 above from the holder of a licence, the Board are satisfied that the applicant will comply with any obligations imposed on him by the Taxes Acts, they may issue a certificate to the holder of the licence exempting him from the provisions of that paragraph with respect to any tax payable by the applicant; and where such a certificate is issued that paragraph shall not apply to any such tax which becomes due while the certificate is in force.

8. The Board may, by notice in writing to the holder of a certificate issued under paragraph 7 above, cancel the certificate from such date, not earlier than thirty days after the service of the notice, as may be specified in the notice.

9. In this Schedule "the Taxes Acts" has the same meaning as in the Taxes Management Act 1970.

1970 c. 9.

Section 39.

SCHEDULE 16

UNDERWRITERS

Interpretation

1.—(1) In this Schedule "member" means an underwriting member of Lloyd's or of any approved association of underwriters, and expressions used in Schedule 10 to the Taxes Act have the same meanings as in that Schedule.

(2) For the purposes of this Schedule an underwriting year corresponds to a year of assessment if it ends in that year.

Basis of assessment under Schedule D

2. For the year 1972-73 and subsequent years of assessment income tax on the profits or gains arising from a member's underwriting business or from assets forming part of a premiums trust fund shall

be computed on the profits or gains of that year of assessment; but for this purpose and all other purposes of the Income Tax Acts—

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- (a) the profits or gains arising in any year of assessment from a member's underwriting business shall be taken to be those arising in the corresponding underwriting year; and
- (b) the profits or gains arising from assets forming part of a premiums trust fund shall be taken to be those allocated under the rules or practice of Lloyd's or of the association concerned to the corresponding underwriting year.

Set-off of losses against general income

3. For the year 1972-73 and subsequent years of assessment relief under section 168 of the Taxes Act in respect of a loss sustained by a member in his underwriting business in any year of assessment shall not be given under subsection (2) of that section (carry forward) but may, if the member so claims and he was a member in the preceding year of assessment, be given against his income for that preceding year, so far as it cannot be given against the income for the year in which the loss was sustained and can be given after any relief for a loss sustained in that preceding year.

Re-insurance

4. Except where an assessment on income arising from a member's underwriting business had been made before 6th April 1973 and was not subject to appeal on or after that date—

- (a) any premium paid by him on an insurance against losses in his underwriting business shall be deducted as an expense in computing the profits or gains arising from that business; and
- (b) any insurance money paid to him under such an insurance shall be taken into account as a trading receipt in computing those profits or gains for the year of assessment for which the premium was allowed as a deduction.

Disposal of assets in premiums trust fund

5. The cost of acquisition and the consideration for the disposal of assets forming part of a premiums trust fund shall be left out of account in computing the profits or gains or losses of a member's underwriting business for the purposes of Schedule D (and accordingly shall not be excluded for the purposes of capital gains tax under paragraphs 2 or 3 of Schedule 6 to the Finance Act 1965).

1965 c. 25

6.—(1) Subject to paragraph 7 below, for the year 1972-73 and subsequent years of assessment the chargeable gains or allowable losses accruing on the disposal of assets forming part of a premiums trust fund shall be taken to be those allocated to the corresponding underwriting year.

(2) The amount of the gains or losses so allocated at the end of any accounting period shall be such proportion of the difference mentioned

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in sub-paragraph (3) below as is allocated to the underwriting year under the rules or practice of Lloyd's or of the association concerned.

(3) The difference referred to in sub-paragraph (2) above is the difference between the valuations at the beginning and at the end of the accounting period of the assets forming part of the fund, the value at the beginning of the period of assets acquired during the period being taken as the cost of acquisition and the value at the end of the period of assets disposed of during the period being taken as the consideration for the disposal.

1965 c. 25.
1969 c. 32.

7. Paragraph 6 above does not apply to the computation of chargeable gains or allowable losses on the disposal of securities of any of the descriptions specified in Schedule 9 to the Finance Act 1965 or of specified securities within the meaning of section 41 of the Finance Act 1969.

Special reserve funds

8. For the year 1973-74 and subsequent years of assessment Schedule 10 to the Taxes Act shall have effect subject to paragraphs 9 to 13 below.

9. The arrangements referred to in paragraph 1 shall not be confined to members who elect to take advantage of them.

10. For paragraph (a) of the proviso to paragraph 7(1) there shall be substituted the following paragraph:—

“(a) the amount of any such payment shall be notified to the inspector not later than twelve months after the date at which the accounts of the business for that underwriting year are deemed by the Commissioners of Inland Revenue to be closed for the purposes of the arrangements, and no such payment shall be made more than thirty days after the date on which the inspector has notified his agreement in writing or, if later, thirty days after the expiration of those twelve months;”.

11. In sub-paragraph (1) of paragraph 11 the words “for all income tax purposes”, where they appear in paragraph (a), shall be omitted and at the end of the sub-paragraph there shall be added the following words:—

“ but paragraph (a) above—

- (i) shall not reduce any income other than income derived from the underwriter's underwriting business or from any deposit made or assets held on trust in connection with that business, and
- (ii) subject to paragraph (i) above, shall reduce income other than investment income before reducing investment income.”

12. After sub-paragraph (2) of paragraph 11 there shall be inserted the following sub-paragraph:—

“ (2A) Where such a payment as is mentioned in paragraph 8(1) above is made out of a special reserve fund of an underwriter by

reason that he has sustained a loss, relief in respect of the loss shall, so far as possible, be given by treating the loss as reducing the income represented by the payment.”

13. After paragraph 12 there shall be inserted the following paragraph—

“12A.—(1) So much of an underwriter’s income as is attributable to payments from his special reserve fund or to such an excess as is mentioned in paragraph 12 above shall (so far as remaining after allowing for any relief by which it is reduced) be treated as investment income if, but only if, his income from his underwriting business falls to be so treated.

(2) Where, as a result of a change in the circumstances in which an underwriting business is carried on, an underwriter’s income from the business falls to be treated as investment income the change shall be disregarded for the purposes of sub-paragraph (1) above except to the extent that the special reserve fund represents payments made into it after the change; and for this purpose any amount withdrawn after the change to give effect to the requirements of paragraph 8 above shall, so far as possible and notwithstanding paragraph 12(3) above, be regarded as having been met by payments into the fund made after the change.”

Consequential amendment

14. For the year 1972-73 and subsequent years of assessment paragraph 16(2) of Schedule 10 to the Taxes Act shall have effect as if for the words following “correspond to each other” there were substituted the words “if the underwriting year ends in the year of assessment”.

Administrative and supplementary provisions

15.—(1) In sub-paragraph (2) of paragraph 9 of Schedule 7 to the Finance Act 1965 (assessment of trustees) for the words “any such 1965 c. 25 fund” there shall be substituted the words “any premiums trust fund” and at the end of the paragraph there shall be added the following sub-paragraph:—

“(4) For the purposes of sub-paragraphs (2) and (3) above the underwriting agent may be treated as a trustee of the premiums trust fund”.

(2) This paragraph shall have effect for the year 1973-74 and subsequent years of assessment.

16. For the year 1973-74 and subsequent years of assessment income tax on the profits or gains arising to a member from assets forming part of a premiums trust fund may be assessed on the underwriting agent through whom his business is carried on.

17.—(1) The Board may by regulations provide—

(a) for the assessment and collection of tax charged in accordance with the preceding provisions of this Schedule;

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- (b) for the transition from the law in force for earlier years of assessment to the law as modified by this Schedule and for the modification for that purpose of the law applicable to the year 1971-72 and later years of assessment;
- (c) for modifying the provisions of this Schedule in relation to syndicates continuing for more than two years after the end of an underwriting year;
- (d) for giving relief from capital gains tax in cases of an underwriter dying while carrying on his business; and
- (e) for giving credit for foreign tax.

(2) Regulations under this paragraph shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of the Commons House of Parliament.

Section 42.

SCHEDULE 17

DOUBLE TAXATION AGREEMENT WITH REPUBLIC OF IRELAND

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE REPUBLIC OF IRELAND WITH RESPECT TO CERTAIN EXEMPTIONS FROM TAX

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Ireland;

With a view to making such alterations in the Agreement made the 14th April 1926, between the British Government and the Government of the Irish Free State in respect of Double Income Tax as may be necessary in consequence of the alterations in the British Income Tax Acts effected by the British Finance Acts 1971 and 1972;

Have agreed as follows:

Article 1

(1) In Article 1(a) of the said Agreement the words "British income tax" shall as respects the year 1973-74 and any subsequent year be construed as meaning the basic rate of income tax and the reference to British surtax shall be construed as meaning the excess of liability to British income tax over what it would be if all British income tax were charged at the basic rate only.

(2) Article 1(a) of the said Agreement shall be further amended by the addition of:

"Where the income is a dividend derived from a company which is resident in the United Kingdom, such a person shall be entitled to payment of the tax credit in respect thereof to which an individual resident in the United Kingdom would have been entitled had he received that dividend:

Provided that there shall be no such entitlement to the tax credit where the recipient of the dividend is a company

which either alone or together with one or more associated companies controls directly or indirectly not less than 10 per cent. of the voting power in the company paying the dividend. For the purpose of this paragraph two companies shall be deemed to be associated if one is controlled directly or indirectly by the other, or both are controlled directly or indirectly by a third company.

The term 'dividend' includes any item which under the law of the United Kingdom is treated as a distribution of a company."

Article 2

Article 1(b) of the said Agreement shall be amended by the addition of:

"Where the income is a dividend paid by a company which is resident in the Republic of Ireland to a company which is resident in the United Kingdom and which controls directly or indirectly not less than 10 per cent. of the voting power in the former company, the exemption shall apply only to income tax in excess of 5 per cent. of the dividend.

The term 'dividend' includes any payment or other transaction which under the law of the Republic of Ireland is deemed to be a dividend."

Article 3

In Article 2 of the said Agreement, as amended by Article 2 of the Agreement of 25th April 1928, any reference to the standard rate of British income tax shall be construed as meaning the basic rate of British income tax and any reference to British surtax shall be construed as meaning the excess of liability to British income tax over what it would be if all British income tax were charged at the basic rate only.

Article 4

This Agreement shall enter into force on the exchange of Notes confirming that the necessary steps have been taken to give it the force of law in the United Kingdom and the Republic of Ireland, and shall thereupon have effect:

- (a) as respects dividends paid on or after 6th April 1973 and not later than 5th April 1975; and
- (b) in other respects for any year of assessment beginning on or after 6th April 1973.

In witness whereof the undersigned, duly authorised thereto by their respective Governments, have signed this Agreement.

Done in two originals at London this 2nd day of May, 1973.

For the Government of the United Kingdom of Great Britain and Northern Ireland:

Anthony Kershaw

For the Government of the Republic of Ireland:

Donal O'Sullivan.

Section 45.

SCHEDULE 18

VALUATION OF CERTAIN INVESTMENTS FOR PURPOSES OF
ESTATE DUTY*Interpretation*

1. In this Schedule—

“the principal section” means section 45 of this Act;

“principal value” means principal value for the purposes of estate duty and “basic principal value”, in relation to any investments, means the value which, apart from the principal section and section 35 of the Finance Act 1968, would be the principal value of those investments;

“relevant proportion”, in relation to the investments to which a claim relates, or any of them, means the proportion by which the loss on sale is reduced under subsection (4) of the principal section;

“sale value”, in relation to any qualifying investments, means their value for the purposes of subsection (2)(b) of the principal section; and

“value on death”, in relation to any qualifying investments, means their value for the purposes of subsection (2)(a) of the principal section.

The appropriate person

2. For the purposes of the principal section and this Schedule—

(a) the executors of the deceased, and

(b) the trustees of a settlement,

shall each be treated as a single and continuing body of persons (distinct from the persons who may from time to time be the executors or trustees).

3. A claim made by the appropriate person under subsection (2) of the principal section shall specify the capacity in which he makes the claim, and any reference in that section to qualifying investments which are sold by him is a reference to investments which, immediately before their sale, were held by him in the capacity in which he makes the claim.

Valuation on sale and purchase

4. In any case where, for the purposes of the principal section, it is necessary to determine the price at which any investments were purchased or sold or the best consideration that could reasonably have been obtained on the sale of any investments, no account shall be taken of any expenses (whether by way of commission, stamp duty or otherwise) which are incidental to the sale or purchase.

5.—(1) Subject to sub-paragraph (2) below, for the purposes of the principal section where any investments are sold or purchased

1968 c. 44.

by the appropriate person the date on which they are so sold or purchased shall be taken to be the date on which he entered into a contract to sell or purchase the investments.

(2) If the sale or purchase of any investments by the appropriate person results from the exercise (whether by him or by any other person) of an option, then, for the purposes of the principal section, the date on which the investments are sold or purchased shall be taken to be the date on which the option was granted.

Principal value where only part of a fund is dutiable

6.—(1) In any case where—

- (a) part only of a holding of qualifying investments is treated for the purposes of estate duty as passing on a death, and
- (b) investments comprised in that holding are sold as mentioned in paragraph (c) of subsection (1) of the principal section,

the principal section and this Schedule shall apply as if the entirety of the holding fell within paragraph (a) of subsection (1) of that section and, if a claim is made under that section in respect of the investments referred to in paragraph (b) above, the dutiable fraction of the principal value of the investments to which the claim relates, as determined under that section, shall be the principal value of that part of those investments which is treated as passing on the death.

(2) In sub-paragraph (1) above, "dutiable fraction" means the fraction of which the numerator is the basic principal value of the part of the holding referred to in paragraph (a) of that sub-paragraph and the denominator is the basic principal value of the entirety of that holding.

Exchanges of qualifying investments

7.—(1) Subject to sub-paragraph (3) below, if, within the period specified in paragraph (c) of subsection (1) of the principal section, the appropriate person exchanges (with or without any payment by way of equality of exchange) any qualifying investments falling within paragraphs (a) and (b) of that subsection, then, regardless of the nature of the property taken in exchange, if the market value of those investments is at the date of the exchange greater than their value on death, they shall be treated for the purposes of the principal section and this Schedule as having been sold at the date of the exchange for a price equal to that market value.

(2) For the purposes of this paragraph, the market value of any investments at any time means the value which would be the basic principal value of the investments if they formed part of the estate of a person who died at that time.

(3) This paragraph does not apply in any case where the exchange falls within paragraph 10(1) below.

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Aggregation of capital receipts with sale price of investments

8.—(1) For the purposes of subsection (2)(b) of the principal section if—

- (a) at any time after the death in question (whether during or after the expiry of the period specified in paragraph (c) of subsection (1) of that section) the appropriate person receives any capital payment or payments which is or are attributable to any qualifying investments falling within paragraphs (a) and (b) of that subsection, and
- (b) those investments are sold by him as mentioned in paragraph (c) of that subsection,

the price for which those investments were sold or, as the case may be, the best consideration referred to in subsection (2)(b) of the principal section shall be taken to be increased by an amount equal to the capital payment, or, as the case may be, the aggregate of the capital payments, referred to in paragraph (a) above.

(2) If the appropriate person receives or becomes entitled to receive in respect of any qualifying investments a provisional allotment of shares in or debentures of a company and he disposes of his rights, the amount of the consideration for the disposal shall be treated for the purposes of this paragraph as a capital payment attributable to those investments.

(3) In this paragraph “capital payment”, in relation to any investment, does not include the price paid on the sale of the investment but, subject to that, includes any money or money's worth which does not constitute income for the purposes of income tax.

Payment of calls

9. For the purposes of subsection (2)(a) of the principal section if—

- (a) at any time after the death in question (whether during or after the expiry of the period specified in paragraph (c) of subsection (1) of that section) the appropriate person pays an amount in pursuance of a call in respect of any qualifying investments falling within paragraphs (a) and (b) of that subsection, and
- (b) those investments are sold by him as mentioned in paragraph (c) of that subsection,

the value on death of those investments shall be the aggregate of the amount so paid and the basic principal value of those investments.

Effect of changes in a holding between death and sale

10.—(1) This paragraph applies in any case where, within the period specified in paragraph (c) of subsection (1) of the principal section, there occurs in relation to any qualifying investments falling within paragraphs (a) and (b) of that subsection (in this paragraph referred to as “the original holding”) a transaction to which

paragraph 4 of Schedule 7 to the Finance Act 1965 applies, that is to say.—

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1965 c. 25.

- (a) a reorganisation, within the meaning of that paragraph, or reduction of the share capital of a company ; or
- (b) the conversion of securities, within the meaning of paragraph 5 of that Schedule ; or
- (c) the issue by a company of shares or debentures in exchange for shares in or debentures of another company in such circumstances that paragraph 6 of that Schedule applies ; or
- (d) the issue by a company of shares or debentures under such an arrangement as is referred to in paragraph 7 of that Schedule ;

or any transaction relating to a unit trust scheme which corresponds to any of the transactions referred to in paragraphs (a) to (d) above and to which paragraph 4 of that Schedule applies by virtue of section 45(8) of the Finance Act 1965.

(2) Subject to sub-paragraph (3) below, where this paragraph applies the holding of investments which, as a result of the transaction, constitutes the new holding, within the meaning of paragraph 4 of the said Schedule 7, shall be treated for the purposes of the principal section and this Schedule as being the same as the original holding ; and references in the following provisions of this paragraph to the new holding shall be construed accordingly.

(3) If, in a case where this paragraph applies, the appropriate person gives, or becomes liable to give, as part of or in connection with the transaction concerned, any consideration for the new holding or any part of it, then, for the purposes of sub-paragraph (5) below, the value on death of the new holding shall be treated as the aggregate of—

- (a) the value on death of the original holding, and
- (b) an amount equal to that consideration,

and in any other case the value on death of the new holding shall be taken to be the same as the value on death of the original holding.

(4) For the purposes of sub-paragraph (3) above, there shall not be treated as consideration given for the new holding or any part of it—

- (a) any surrender, cancellation or other alteration of any of the investments comprised in the original holding or of the rights attached thereto, or
- (b) any consideration consisting of any application, in paying up the new holding or any part of it, of assets of the company concerned or of any dividend or other distribution declared out of those assets but not made.

(5) If, in a case where this paragraph applies, the appropriate person sells, within the period referred to in sub-paragraph (1) above,

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any investments comprised in the new holding, the value on death of those investments shall be determined by the formula—

$$\frac{Vs (H - S)}{(Vs + Vr)}$$

where—

Vs is the sale value of the investments,

Vr is the market value at the time of the sale of any investments remaining in the new holding after the sale,

H is the value on death of the new holding, and

S is the value on death of any investments which were originally comprised in the new holding but have been sold on a previous occasion or occasions.

(6) Sub-paragraph (2) of paragraph 7 above shall apply for the purposes of sub-paragraph (5) above as it applies for the purposes of that paragraph.

Effect of purchase, etc. of investments of the same description

11.—(1) If, at any time within the period specified in paragraph (c) of subsection (1) of the principal section, the appropriate person sells any investments which form part of a holding of investments which are all of the same description and consist of—

- (a) investments falling within paragraphs (a) and (b) of that subsection, and
- (b) investments acquired by him, by purchase or otherwise, after the death concerned but not in circumstances in which paragraph 10 above applies,

the investments so sold shall be apportioned for the purposes of the principal section and this Schedule between those falling within paragraph (a) and those falling within paragraph (b) above in the same proportion as, immediately before the sale, the investments comprised in the holding and falling within paragraph (a) above bore to the investments so comprised and falling within paragraph (b) above.

(2) For the purposes of this paragraph, if the appropriate person holds investments of any description in the capacity of an executor or trustee, the investments shall not be treated as forming part of the same holding as investments which, though of the same description, are held by him otherwise than in that capacity.

Attribution of principal values to specific investments

12.—(1) This paragraph shall have effect in determining the principal value (and, accordingly, the market value for the purposes of capital gains tax under section 26 of the Finance Act 1965) of any investment (in this paragraph referred to as a "specific investment") which is included among the investments to which a claim relates.

(2) Subject to the following provisions of this paragraph, the principal value of a specific investment shall be its sale value.

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(3) Subject to the following provisions of this paragraph, in a case where the calculation of the loss on sale of the investments to which a claim relates is affected by subsection (4) of the principal section—

- (a) if the value on death of a specific investment exceeds its sale price, the principal value of that investment shall be the aggregate of its sale value and an amount equal to the relevant proportion of the difference between its sale price and its value on death ; and
- (b) if the sale price of a specific investment exceeds its value on death, the principal value of the investment shall be its sale value less an amount equal to the relevant proportion of the difference between its value on death and its sale price.

(4) For the purposes of sub-paragraphs (2) and (3) above, the sale value of a specific investment in respect of which an amount has been paid in pursuance of a call, as mentioned in paragraph 9 above, shall be reduced by the amount so paid in respect of that investment.

(5) In a case where, by virtue of sub-paragraph (3) of paragraph 10 above, the value on death of the new holding, within the meaning of that paragraph, includes an amount equal to the consideration referred to in that sub-paragraph, the sale value of any specific investment comprised in the new holding shall be reduced, for the purposes of sub-paragraphs (2) and (3) above, by an amount which bears to that consideration the like proportion as the value on death of the specific investment sold bears to the value on death of the whole of the new holding.

(6) In sub-paragraph (3) above "sale price", in relation to a specific investment, means the price for which the investment was sold by the appropriate person or, if it is greater, the best consideration which could reasonably have been obtained for the specific investment at the time of the sale ; and paragraph 8 above shall apply for the purposes of this sub-paragraph as it applies for the purposes of subsection (2)(b) of the principal section.

Loss on sale not to exceed principal value

13. In any case where, apart from this paragraph, the loss on sale of any investments—

- (a) in respect of which an amount has been paid in pursuance of a call, as mentioned in paragraph 9 above, or
- (b) which are sold as mentioned in paragraph 10(5) above, would exceed their basic principal value, their sale value shall be treated for the purposes of the principal section and paragraph 12 above as being of such an amount that the loss on sale would be equal to their basic principal value.

SCHEDULE 19

STAMP DUTY ON DOCUMENTS RELATING TO CHARGEABLE
TRANSACTIONS OF CAPITAL COMPANIES

PART I

CHARGEABLE TRANSACTIONS

1. Subject to the following provisions of this Schedule, the chargeable transactions for the purposes of section 47 of this Act are—

- (a) the formation of a capital company ;
- (b) an increase in the capital of a capital company by the contribution of assets of any kind ;
- (c) an increase in the assets of a capital company by the contribution of assets of any kind in consideration, not of shares in the capital or assets of the company, but of rights of the same kind as those of members of the company, such as voting rights, a share in the profits or a share in the surplus on liquidation ;
- (d) any transaction as a result of which the liability of a member of a capital company which, before the transaction, was unlimited becomes limited to his share in the company's capital, in particular, where the limitation of liability results from the conversion of a capital company into a different type of capital company ;
- (e) the transfer to Great Britain from a third country of the place of effective management of a capital company if the registered office of the company is in a third country ;
- (f) the transfer to Great Britain from a third country of the registered office of a capital company if the place of effective management of the company is in a third country ;
- (g) the transfer to Great Britain from another member State of the place of effective management of a corporation or body of persons which is a capital company for the purposes of this Schedule but which is not treated as such in that other member State ; and
- (h) the transfer to Great Britain from another member State of the registered office of a corporation or body of persons if—
 - (i) the place of effective management of the corporation or body is in a third country ; and
 - (ii) the corporation or body is a capital company for the purposes of this Schedule but is not treated as such in the member State from which the transfer takes place.

2.—(1) For the purposes of paragraph 1(a) above “formation”, in relation to a capital company,—

- (a) includes the conversion into a capital company of a corporation or body of persons which, before the conversion, is not a capital company ; and

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(b) does not include the conversion of a capital company into a different type of capital company or any alteration of the constituent instrument or regulations of the capital company.

(2) For the avoidance of doubt it is hereby declared that—

(a) the conversion of loan stock of a capital company into share capital ; and

(b) the issue of shares in a capital company in satisfaction of a debt owed by the company,

are transactions falling within paragraph 1(b) above.

3.—(1) Any reference in paragraph 1 above to a corporation or body of persons being treated as a capital company in another member State is a reference to the corporation or body of persons being treated under the provisions of the law of that member State corresponding to section 47 of this Act in a manner similar to that in which a corporation or body of persons which is a capital company for the purposes of that section is treated under that section.

(2) In paragraph 1 above "third country" means a country which is not, and does not form part of, a member State.

PART II

AMOUNT ON WHICH DUTY IS CHARGED

4.—(1) Subject to the following provisions of this Part of this Schedule, in the case of the relevant document relating to a chargeable transaction falling within any of sub-paragraphs (a) to (c) of paragraph 1 above, the amount on which duty is chargeable under section 47(5) of this Act shall be the actual value of assets of any kind contributed by the members.

(2) Sub-paragraph (1) above shall not apply in the case of a chargeable transaction falling within paragraph 1(a) above which consists of the conversion into a capital company of a corporation or body of persons which, before the conversion, is not a capital company ; and in the case of the relevant document relating to any such transaction, the amount on which duty is chargeable under section 47(5) of this Act shall, subject to the following provisions of this Part of this Schedule, be the actual value of the assets of any kind belonging to the capital company immediately after the conversion, less its liabilities at that time.

(3) If, in the case of a chargeable transaction falling within any of sub-paragraphs (a) to (c) of paragraph 1 above, the consideration provided by the capital company for the acquisition of all or any of the assets contributed as mentioned in sub-paragraph (1) above consists, in whole or in part, of the assumption by the company of any liabilities transferred to it or the discharge by the company of any liabilities, the actual value of assets contributed shall be treated for the purposes of that sub-paragraph as reduced by an amount equal to the liabilities so assumed or discharged.

5. In the case of the relevant document relating to a chargeable transaction falling within paragraph 1(d) above, the amount on which

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duty is chargeable under section 47(5) of this Act shall be the value of the share in the company's assets, less the share in the company's liabilities, which immediately before the transaction belonged to members who then had unlimited liability for the company's obligations but who, as a result of the transaction, have only a limited liability.

6.—(1) Subject to sub-paragraph (2) and paragraphs 7 and 8 below, in the case of the relevant document relating to a chargeable transaction falling within any of sub-paragraphs (e) to (h) of paragraph 1 above, the amount on which duty is chargeable under section 47(5) of this Act shall be the actual value of the assets of any kind belonging to the capital company at the time of the transaction, less its liabilities at that time.

(2) If the Commissioners consider it appropriate to do so, in relation to the relevant document falling within sub-paragraph (1) above, they may for the purposes of that sub-paragraph treat the actual value of the shares in the capital company belonging to the members of the company at the time of the transaction to which the relevant document relates as being the amount on which duty is chargeable as mentioned in that sub-paragraph.

7.—(1) Notwithstanding anything in paragraph 4 above, if the amount on which, apart from this sub-paragraph, duty would be chargeable under section 47(5) of this Act in the case of the relevant document falling within that paragraph is less than—

- (a) if sub-paragraph (1) of that paragraph applies, the nominal value of the shares in the capital company allotted on the occasion of the transaction to which the relevant document relates, or
- (b) if sub-paragraph (2) of that paragraph applies, the nominal value of the shares in the capital company belonging to the members of the company immediately after the transaction to which the relevant document relates,

duty shall be chargeable under that section, in the case of that document, on an amount equal to that nominal value.

(2) Notwithstanding anything in sub-paragraph (1) of paragraph 6 above, but subject to sub-paragraph (2) of that paragraph, if the amount on which, apart from this sub-paragraph, duty would be chargeable under section 47(5) of this Act in the case of the relevant document falling within the said sub-paragraph (1) is less than the nominal value of the shares in the capital company belonging to the members of the company at the time of the transaction to which the relevant document relates, duty shall be chargeable under that section, in the case of that document, on an amount equal to that nominal value.

8. Notwithstanding anything in the preceding provisions of this Part of this Schedule, in determining, in the case of any document, the amount on which duty is chargeable under section 47(5) of this

Act, no account shall be taken, except as provided in paragraph 5 above, of—

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- (a) the amount of the assets contributed to a capital company by a member whose liability for the company's obligations is unlimited; or
- (b) the share of such a member in the company's assets.

PART III

EXEMPT TRANSACTIONS

9.—(1) Subject to the following provisions of this paragraph, a chargeable transaction falling within paragraph 1(b) above (in this paragraph referred to as "the relevant transaction") shall be an exempt transaction for the purposes of section 47 of this Act if it is shown to the satisfaction of the Commissioners that—

- (a) less than four years before the relevant transaction occurred the nominal capital of the capital company concerned was reduced by any amount (in this paragraph referred to as "the amount of the reduction") as a result of losses sustained, and
- (b) either there has been in the interim period no chargeable transaction falling within paragraph 1(b) above in relation to the capital company concerned or the total of the increases in that company's capital which have been effected in the interim period by any such chargeable transaction (or transactions) is less than the amount of the reduction, and for the purposes of paragraph (b) above "the interim period" means the period beginning with the reduction referred to in paragraph (a) above and ending immediately before the relevant transaction.

(2) If—

- (a) the relevant transaction is an exempt transaction by virtue of sub-paragraph (1) above, and
- (b) the increase in the capital of the capital company concerned which is effected by the relevant transaction, taken with the increases (if any) which have been effected in the company's capital in the interim period as mentioned in paragraph (b) of that sub-paragraph, exceeds the amount of the reduction,

stamp duty shall be chargeable under section 47(5) of this Act on the relevant document relating to the relevant transaction, but only on such proportion of the amount determined in relation to that document under Part II of this Schedule as corresponds to the proportion which that excess bears to the total of the increase in capital effected by the relevant transaction.

(3) In any case where the reduction in nominal capital referred to in paragraph (a) of sub-paragraph (1) above occurred on or before 31st July 1973, references in paragraph (b) of that sub-paragraph to a chargeable transaction falling within paragraph 1(b) above include references to a transaction which occurred before that date but which

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would have been such a chargeable transaction if this Schedule had been in force when the transaction occurred.

(4) If, in the case of the relevant transaction, it appears to the Commissioners that the amount of the reduction in nominal capital referred to in sub-paragraph (1)(a) above is greater than the total of the losses as a result of which the reduction occurred, sub-paragraphs (1) and (2) above shall have effect as if for references to the amount of the reduction there were substituted references to the total of those losses.

(5) For the purposes of this paragraph, the increase in a company's capital effected by a transaction falling within sub-paragraph (1)(b) above shall be—

- (a) the actual value of assets of any kind contributed, on the occasion of the transaction, by the members of the capital company to which the transaction relates, or
- (b) the nominal value of the shares in that capital company allotted on the occasion of the transaction,

whichever is the greater.

10.—(1) A chargeable transaction shall be an exempt transaction for the purposes of section 47 of this Act if it is shown to the satisfaction of the Commissioners—

- (a) that, by virtue of the transaction, a capital company which is in the process of being formed or which is already in existence—
 - (i) has acquired share capital of another capital company to the extent that, after the transaction, not less than 75 per cent. of the issued share capital of that other company is beneficially owned by the first company, or
 - (ii) has acquired the whole or any part of the undertaking of another capital company, and

- (b) that the conditions specified in sub-paragraph (2) below are fulfilled in relation to the transaction :

and in this paragraph the first company mentioned in paragraph (a) above is referred to as "the acquiring company" and the other company mentioned in sub-paragraph (i) or (ii) of that paragraph is referred to as "the acquired company".

- (2) The conditions referred to in sub-paragraph (1) above are—
 - (a) that the place of effective management or the registered office of the acquired company is in a member State ; and
 - (b) that so much, if any, of the consideration (taking no account of such part thereof as consists of the assumption or discharge by the acquiring company of liabilities of the acquired company) for the acquisition referred to in that sub-paragraph as does not consist—

- (i) where shares are to be acquired, of the issue of shares in the acquiring company to the holders of shares in the acquired company in exchange for the shares held by them in the acquired company,

(ii) where the whole or any part of the undertaking is to be acquired, of the issue of shares in the acquiring company to the acquired company or to holders of shares in the acquired company,

consists wholly of a payment in cash which does not exceed 10 per cent. of the nominal value of the shares which make up the balance of the consideration.

(3) If, at any time within the period of five years beginning with the occurrence of a chargeable transaction which is an exempt transaction falling within paragraph (a)(i) of sub-paragraph (1) above, the acquiring company—

- (a) ceases to retain at least 75 per cent. of the issued share capital of the acquired company, or
- (b) disposes of any of the shares in the acquired company which it held immediately after the occurrence of the chargeable transaction.

duty shall then become chargeable, and shall be payable in accordance with sub-paragraph (4) below; but for the purpose of determining whether paragraph (a) or paragraph (b) above applies, any disposal of shares shall be disregarded if it is effected—

- (i) by a transfer forming part of a chargeable transaction which is itself an exempt transaction by virtue of any provision of sub-paragraph (1) above, or
- (ii) in the course of the winding-up of the acquiring company.

(4) If sub-paragraph (3) above applies, then, within one month of the date on which the holding of share capital referred to in paragraph (a) of that sub-paragraph first falls below 75 per cent. or, as the case may be, the date of the first disposal of any of the shares referred to in paragraph (b) of that sub-paragraph (in this paragraph referred to as "the date of charge"), there shall be paid to the Commissioners duty corresponding to the stamp duty which would have been charged under subsection (5) of section 47 of this Act on the relevant document if the chargeable transaction had not been an exempt transaction.

(5) If sub-paragraph (4) above applies, subsection (7) of section 47 of this Act shall apply—

- (a) as if the chargeable transaction had never been an exempt transaction; and
- (b) as if for the reference in that subsection to the date of the transaction there were substituted a reference to the date of charge;

and, in addition, interest on the duty payable under that sub-paragraph at the rate of 5 per cent. per annum from the date when the chargeable transaction occurred to the date of charge shall be a debt due to Her Majesty from the acquiring company.

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1948 c. 38.

PART IV

SUPPLEMENTARY PROVISIONS

11. Where, in pursuance of a compromise or arrangement falling within section 206 of the Companies Act 1948 or otherwise, shares in a capital company are allotted to any persons in consideration of either the surrender by them or the cancellation of their shares in another company, then, for the purposes of Parts I to III above, the shares so surrendered or cancelled shall be treated as being acquired by the capital company in exchange for the shares so allotted and, accordingly, as being assets contributed by those persons.

12. If, on the occasion of a chargeable transaction falling within any of sub-paragraphs (a) to (c) of paragraph 1 above, any person undertakes to contribute assets of any kind to a capital company at some future time, whether certain or uncertain, then—

- (a) for the purposes of the application of paragraph 4 above in relation to that chargeable transaction, the giving of the undertaking shall not be treated as the contribution of an asset to the capital company; and
- (b) if, apart from this sub-paragraph, the making of a contribution to the assets of the capital company concerned in pursuance of the undertaking would not be a chargeable transaction, it shall be deemed for the purposes of section 47 of this Act and this Schedule to be a chargeable transaction falling within paragraph 1(c) above.

13. To the extent that the conveyance or transfer of assets to a capital company forms part of a chargeable transaction falling within sub-paragraph (a) or sub-paragraph (b) of paragraph 1 above and is made in consideration of the issue of shares in the company, no stamp duty shall be chargeable under the heading "Conveyance or Transfer on sale" in Schedule 1 to the Stamp Act 1891 on any instrument giving effect to the conveyance or transfer except in so far as the consideration is referable to the conveyance or transfer of—

- (a) stock or securities, or
- (b) the whole or any part of an undertaking, or
- (c) any estate or interest in land.

PART V

CONSEQUENTIAL AMENDMENTS

14. In subsection (4) of section 58 of the Companies Act 1948 (issue of shares in pursuance of that subsection to the nominal amount of redeemed preference shares not to be an increase in share capital for purposes of enactments relating to stamp duty) for the words from "the share capital" to "pursuance of this subsection" there shall be substituted the words "for the purposes of section 47 of the Finance Act 1973 the issue of shares in pursuance of this subsection shall constitute a chargeable transaction if, and only if, the actual value of the shares so issued exceeds the value

1891 c. 39.

of the preference shares at the date of their redemption, and, where the issue of the shares does constitute a chargeable transaction for the purposes of that section, the amount on which stamp duty on the relevant document relating to that transaction is chargeable under subsection (5) of that section shall be the difference between—

- (a) the amount on which that duty would be so chargeable if no preference shares had been or were about to be redeemed; and
- (b) the value of the preference shares at the date of their redemption.”

15. In subsection (2) of section 40 of the Iron and Steel Act 1967 1967 c. 17. (no stamp duty chargeable in certain cases where a company is formed by the British Steel Corporation or the amount of the nominal share capital of a subsidiary of the Corporation is increased) the words “to be”, in both places where they occur, and the words “nominal share”, in the first place where they occur, shall be omitted and for the words from “on so much” to the end of the subsection there shall be substituted the words “under section 47 of the Finance Act 1973 on any document relating to a chargeable transaction consisting of the formation of the company or the increase of capital except to the extent to which, in the opinion of the Treasury, the transaction goes beyond what is necessary for achieving that purpose”.

16. In subsection (2) of section 160 of the Transport Act 1968 1968 c. 73. (no stamp duty chargeable in certain cases) for paragraphs (a) and (b) there shall be substituted the words “under section 47 of the Finance Act 1973 in respect of the amount which is to form the capital of a company or in respect of any increase in the capital of a company”.

17. In subsection (2) of section 22 of the Atomic Energy Authority 1971 c. 11. Act 1971 (no stamp duty chargeable in respect of any increase in nominal share capital of Nuclear Fuels Company or Radiochemical Company which is effected for purpose of issuing shares to Atomic Energy Authority) for the words “section 112 of the Stamp Act 1891” there shall be substituted the words “section 47 of the Finance Act 1973” and the words “nominal share” shall be omitted.

18. In subsection (3) of section 33 of the Gas Act 1972 (no 1972 c. 60. stamp duty chargeable in certain cases where a subsidiary is formed by the British Gas Corporation or the amount of the nominal share capital of a subsidiary is increased) the words “to be”, in both places where they occur, and the words “nominal share”, in the first place where they occur, shall be omitted and for the words from “on so much” to the end of the subsection there shall be substituted the words “under section 47 of the Finance Act 1973 on any document relating to a chargeable transaction consisting of the formation of the subsidiary or the increase of capital except to the extent to which, in the opinion of the Treasury the transaction goes beyond what is necessary for achieving that purpose.

Section 51.

SCHEDULE 20

MARKET VALUE OF UNQUOTED SHARES AND SECURITIES

1. In this Schedule "the principal section" means section 51 of this Act.

2. So far as the principal section relates to a determination falling within paragraph (a) of subsection (1) thereof, the principal section applies in the case of deaths on or after 6th July 1973.

3. So far as the principal section relates to a determination falling within paragraph (b) of subsection (1) thereof, the principal section applies, subject to paragraph 7 below, on the disposal of any asset on or after 6th July 1973.

4. Subject to paragraphs 5 and 6 below, if the market value of an asset or any part of it at the time of its acquisition is material to the computation of any chargeable gain accruing on a disposal of the asset on or after 6th July 1973 then, notwithstanding that the acquisition may have occurred before that date or that the market value at that time may have been fixed for the purposes of a contemporaneous disposal, subsection (3) of the principal section shall apply for the purposes of the determination of the market value of the asset or, as the case may be, that part of it at the time of its acquisition.

5.—(1) This paragraph applies if, in a case where the market value of an asset at the time of its acquisition is material as mentioned in paragraph 4 above,—

(a) the acquisition took place on the occasion of a death occurring after 30th March 1971 and before 6th July 1973, and

(b) by virtue of section 26 of the Finance Act 1965, the principal value of the asset for the purposes of estate duty on that death would, apart from this paragraph, be taken to be the market value of the asset at the date of the death for the purposes of Part III of that Act.

(2) If the principal value referred to in sub-paragraph (1)(b) above fails to be determined as mentioned in section 55 of the Finance Act 1940 or section 15 of the Finance (No. 2) Act (Northern Ireland) 1946 (certain controlling shareholdings to be valued on an assets basis), nothing in the principal section shall affect the operation of section 26 of the Finance Act 1965 for the purpose of determining the market value of the asset at the date of the death.

(3) If sub-paragraph (2) above does not apply, section 26 of the Finance Act 1965 shall not apply as mentioned in sub-paragraph (1)(b) above and the market value of the asset on its acquisition at the date of the death shall be determined in accordance with section 44 of that Act and paragraph 4 above.

6.—(1) In any case where—

(a) before 6th July 1973 there has been a part disposal of an asset to which the principal section applies (in this paragraph referred to as "the earlier disposal"), and

1965 c. 25.

1940 c. 29.
1946 c. 17
(N.I.).

- (b) by virtue of any enactment, the acquisition of the asset or any part of it was deemed to be for a consideration equal to its market value, and
- (c) on or after 6th July 1973 there is a disposal (including a part disposal) of the property which remained undisposed of immediately before that date (in this paragraph referred to as "the later disposal"),

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sub-paragraph (2) below shall apply in computing any chargeable gain accruing on the later disposal (but not so as to affect the amount of any chargeable gain accruing on the earlier disposal).

(2) Where this sub-paragraph applies, the apportionment made by virtue of paragraph 7 of Schedule 6 to the Finance Act 1965 on 1965 c. 25. the occasion of the earlier disposal shall be recalculated on the basis that subsection (3) of the principal section was in force at the time, and applied for the purposes, of the determination of—

- (a) the market value referred to in sub-paragraph (1)(b) above ; and
- (b) the market value of the property which remained undisposed of after the earlier disposal ; and
- (c) if the consideration for the earlier disposal was, by virtue of any enactment, deemed to be equal to the market value of the property disposed of, that market value.

7. In any case where—

- (a) before 6th July 1973 there has been a disposal of an asset to which the principal section applies, and
- (b) immediately before that date the amount of any gain or loss accruing on the disposal has not been finally determined for the purposes of Part III of the Finance Act 1965, and
- (c) the application of this paragraph would result in a smaller gain or a greater loss accruing on the disposal than if this paragraph did not apply,

then, notwithstanding that any market value material to the determination referred to in paragraph (b) above may have been fixed for the purposes of any acquisition which was contemporaneous with the disposal, this Schedule shall have effect as if for any reference in paragraphs 3, 4 and 6 above to 6th July 1973 there were substituted a reference to the date of the disposal.

8. If, apart from this paragraph, section 26(3) of the Finance Act 1965, as originally enacted (market value determined for capital gains tax purposes on a death to be treated as principal value for estate duty purposes), would apply in a case where, by virtue of paragraph 4, paragraph 6 or paragraph 7 above, subsection (3) of the principal section applies for the purposes of the determination of the market value (for the purposes of tax on chargeable gains) of an asset on the date of a death occurring on or before 30th March 1971, the said section 26(3) shall not apply and the principal value of the asset for the purposes of estate duty on that death shall be determined as if that section had not been enacted.

Section 54.

SCHEDULE 21

AMENDMENTS CONSEQUENTIAL ON ESTABLISHMENT OF THE STOCK EXCHANGE

1920 c. 18.

1. In section 42 of the Finance Act 1920 for the word "dealer", wherever it occurs in subsections (1) and (2), there shall be substituted the word "jobber", and for the definition of "dealer" in subsection (3) there shall be substituted the following:—

"The expression 'jobber' means a member of The Stock Exchange who is recognised by the Council thereof as carrying on the business of a jobber and carries on that business in the United Kingdom".

1940 c. 29.

2. In section 55(4) of the Finance Act 1940 for the words "the committee of a recognised stock exchange in the United Kingdom" there shall be substituted the words "the Council of The Stock Exchange" and for the words "that stock exchange" the words "The Stock Exchange".

1961 c. 36.

3. In section 34 of the Finance Act 1961 for the word "dealer", wherever it occurs, there shall be substituted the word "jobber".

1965 c. 25.

4. In section 44(3) of the Finance Act 1965—

(a) for the words "quoted on the London Stock Exchange" there shall be substituted the words "listed in The Stock Exchange Daily Official List" and for the words "so quoted" the words "quoted in that List";

(b) for the words "the Stock Exchange Official Daily List" there shall be substituted the words "The Stock Exchange Daily Official List";

(c) for the words "some other stock exchange in the United Kingdom affords a more active market" there shall be substituted the words "The Stock Exchange provides a more active market elsewhere than on the London trading floor"; and

(d) for the words "if the London Stock Exchange is closed" there shall be substituted the words "if the London trading floor is closed".

1970 c. 9.

5. In section 21 of the Taxes Management Act 1970—

(a) the words "or dealing broker", wherever they occur, and the definition of "dealing broker" in subsection (7) shall be omitted; and

(b) for the definitions of "broker" and "jobber" in subsection (7) there shall be substituted the following:—

"'broker' means a member of The Stock Exchange who carries on his business in the United Kingdom and is not a jobber;

'jobber' means a member of The Stock Exchange who is recognised by the Council thereof as carrying on the

business of a jobber and carries on that business in the United Kingdom".

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6. In section 472(2) of the Taxes Act—

(a) for paragraph (b) there shall be substituted the following paragraph :—

“(b) is a member of The Stock Exchange who is recognised by the Council thereof as carrying on the business of a jobber”; and

(b) paragraph (c) and the words from “and, in the case” to the end shall be omitted.

7. In section 475(3) and (5) of the Taxes Act for the words “quoted in the official list of the London Stock Exchange” there shall be substituted the words “listed in The Stock Exchange Daily Official List”.

8. In section 477 of the Taxes Act—

(a) the words “or dealing broker”, in both places where they occur in subsection (3), and the definition of “dealing broker” in subsection (6) shall be omitted; and

(b) for the definitions of “broker” and “jobber” in subsection (6) there shall be substituted the following :—

“‘broker’ means a member of The Stock Exchange who carries on his business in the United Kingdom and is not a jobber;

‘jobber’ means a member of The Stock Exchange who is recognised by the Council thereof as carrying on the business of a jobber”.

9. In section 535(1) of the Taxes Act for the words from “has the same meaning” to the end of paragraph (a) there shall be substituted the words “means—

(a) The Stock Exchange, and”.

Section 59.

SCHEDULE 22

ENACTMENTS REPEALED

PART I

REVENUE DUTIES

Chapter	Short title	Extent of repeal
12, 13 & 14 Geo. 6. c. 47.	The Finance Act 1949.	Section 8.
14 & 15 Geo. 6. c. 43.	The Finance Act 1951.	Section 4.
10 & 11 Eliz. 2. c. 44.	The Finance Act 1962.	Section 2.
1963 c. 25.	The Finance Act 1963.	Section 3. Section 4(1) and (3). Schedule 1.
1964 c. 49.	The Finance Act 1964.	Section 1(2) and (3). Section 2(3). Section 3(2). Section 4(3). Section 3.
1968 c. 44. 1969 c. 32.	The Finance Act 1968. The Finance Act 1969.	In section 1, subsections (1), (2) and (5)(c). Schedules 2 to 5.
1970 c. 24.	The Finance Act 1970.	In Schedule 7, paragraph 3. In section 7, in subsection (2), the words from "Schedule 5" to "1969 and", and the words from "(tobacco" to "proof spirit"; and sub- section (4).
1971 c. 68. 1972 c. 41.	The Finance Act 1971. The Finance Act 1972.	Section 10. Section 12. Section 56. Sections 60 and 61. Schedule 8.

PART II
INCOME TAX AND CORPORATION TAX

Chapter	Short title	Extent of repeal
1965 c. 25.	The Finance Act 1965.	In section 94, in subsection (1) the words from "and of section 163(1)" to "Schedule D"; and in subsection (3) the words from "or of Chapter VIII" to "1970".
1966 c. 18.	The Finance Act 1966.	In section 43, the words from "and Part II" to "capital gains".

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Chapter	Short Title	Extent of repeal
1969 c. 32.	The Finance Act 1969.	In Schedule 19, in paragraph 16(2), the words from "for the purposes" to "capital gains".
1970 c. 10.	The Income and Corporation Taxes Act 1970.	In section 108, paragraph 2 of Schedule D and, in paragraph 3, the words "and 2". Section 258(8)(b). In section 461, in paragraph A, the words from "to recover tax" to the end of the paragraph. Section 466(2). In section 468(4), in the second column, the words "(4)" and "Section 466(2)". In Schedule 8, the proviso to paragraph 4. In Schedule 15, in the Table in paragraph 11, the entries relating to section 94 of the Finance Act 1965.
1970 c. 24.	The Finance Act 1970.	Section 19(2)(f). In section 26(1) the definition of "controlling director". In Schedule 5, in paragraph 12(7), the words "the proviso to paragraph 4 of Schedule 8". Section 2.
1970 c. 54.	The Income and Corporation Taxes (No. 2) Act 1970.	In section 15, paragraphs (a) and (b) of subsection (2) and subsection (6). Section 18(2).
1971 c. 68.	The Finance Act 1971.	In Schedule 6, paragraphs 10 and 64. Section 65(2). In section 92(2), (6) and (7) the word "surplus", wherever it occurs.
1972 c. 41.	The Finance Act 1972.	In Schedule 12, in paragraph 5(1) of Part IV the words from "and where" onwards, and in paragraph 5(2)(b) of that Part the words "and that price" and the words from "both" to "thereof and". In Schedule 16, in paragraph 5(7)(c) the word "total" and paragraph 7(7).

The repeal of section 18(2) of the Finance Act 1971 has effect for the year 1974-75 and subsequent years of assessment.

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PART III
UNDERWRITERS

Chapter	Short title	Extent of repeal
1972 c. 10.	The Income and Corporation Taxes Act 1970.	In Schedule 10, the following— in paragraph 1, the words “who elects to take advantage of the arrangements”, the word “such”, where it last occurs, and the words “who duly elects as aforesaid”; paragraphs 2 to 4; in paragraph 7(2) the words from “subsequent” to the end; in paragraph 11(1)(a) the words “for all income tax purposes”; in paragraph 11(2)(a) (iii) the words “which immediately preceded the year of assessment”; in paragraph 14, sub-paragraph (a).

These repeals have effect for the year 1973–74 and subsequent years of assessment and, so far as they relate to proviso (a) of paragraph 7(2) and paragraph 11(2)(a)(iii), also for the year 1972–73.

PART IV
THE STOCK EXCHANGE

Chapter	Short title	Extent of repeal
21 & 22 Geo. 5. c. 28. 1970 c. 9.	The Finance Act 1931. The Taxes Management Act 1970.	Section 42. In section 21 the words “or dealing broker”, wherever they occur, and, in subsection (7), the definition of “dealing broker”.
1970 c. 10.	The Income and Corporation Taxes Act 1970.	In section 472(2), paragraph (c) and the words from “and, in the case” to the end. In section 477, in subsection (3), the words “or dealing broker”, in both places and, in subsection (6), the definition of “dealing broker”.

PART V
STAMP DUTY

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Chapter	Short title	Extent of repeal
54 & 55 Vict. c. 39.	The Stamp Act 1891.	Section 82. In section 83, the words “makes, issues” and “or offers for subscription”. Sections 112 and 113. In Schedule 1 the headings “Bond for securing the pay- ment or repayment of money or the transfer or retransfer of stock”, “Colonial Securi- ty”, “Debenture for secu- ring the payment or repayment of money or the transfer or retransfer of stock”, “Foreign Security”, and “Marketable Security”.
59 & 60 Vict. c. 28.	The Finance Act 1896.	Section 12.
62 & 63 Vict. c. 9.	The Finance Act 1899.	Sections 7 and 8.
3 Edw. 7. c. 46.	The Revenue Act 1903.	Section 5.
7 Edw. 7. c. 13.	The Finance Act 1907.	Section 10.
7 Edw. 7. c. 24.	The Limited Partnerships Act 1907.	Section 11.
10 & 11 Geo. 5. c. 18.	The Finance Act 1920.	Section 39.
17 & 18 Geo. 5. c. 10.	The Finance Act 1927.	In section 55, in subsection (1), paragraph (A), and subsection (4). In section 31, paragraph (1).
18 & 19 Geo. 5. c. 17.	The Finance Act 1928.	
20 & 21 Geo. 5. c. 28.	The Finance Act 1930.	Section 41. Section 45.
23 & 24 Geo. 5. c. 19.	The Finance Act 1933.	Section 41.
24 & 25 Geo. 5. c. 32.	The Finance Act 1934.	Section 29.
9 & 10 Geo. 6. c. 64.	The Finance Act 1946.	Section 52(b).
10 & 11 Geo. 6. c. 35.	The Finance Act 1947.	Section 59.
11 & 12 Geo. 6. c. 49.	The Finance Act 1948.	Section 73.
5 & 6 Eliz. 2. c. 48.	The Electricity Act 1957.	In section 26, in subsection (6) the words from “and for the purposes” to the end of the subsection.
10 & 11 Eliz. 2. c. 46.	The Transport Act 1962.	In section 41, subsection (2) and in subsection (4) para- graph (a).
1963 c. 25.	The Finance Act 1963.	In section 57(1), the words “Marketable Security, para- graph (1)(b) (security not transferable by delivery)”.

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Chapter	Short title	Extent of repeal
1963 c. 25— <i>cont.</i>	The Finance Act 1963— <i>cont.</i>	Section 58(2). In section 59, in subsection (1) the words " and paragraph (1)(a) and (c) and paragraphs (3) and (4) of the heading ' Marketable Security ' ", and in subsection (2) the words from " and section 82 " to the end of the subsection. In section 62, in subsection (4) the words " 82 and ", and in subsection (6) the words from " and in section 82 " to the end of the subsection.
1967 c. 54.	The Finance Act 1967.	Section 28.
1967 c. 81. 1968 c. 44. 1968 c. 73.	The Companies Act 1967. The Finance Act 1968. The Transport Act 1968.	In section 29, subsection (1), in subsection (3) the words "(1) and " and subsection (4). Section 44(8). Section 56. In section 160, in subsection (3) in paragraph (a) the words " or an issue of loan capital " and " or issue " and in each of paragraphs (b) and (c) the words " or issue of loan capital " and " or issue ", and subsection (4).
1969 c. 32. 1969 c. 35.	The Finance Act 1969. The Transport (London) Act 1969.	Section 56. Section 44(2).
1970 c. 24.	The Finance Act 1970.	In Schedule 7, paragraph 15.

1. Subject to paragraphs 2 and 3 below, these repeals have effect on and after 1st August 1973 but do not apply in relation to any case where stamp duty may be chargeable after that date in accordance with subsection (1) of section 49 of this Act.

2. In so far as they relate to duty chargeable—

(a) by virtue of the heading " Marketable Security " in Schedule 1 to the Stamp Act 1891, and

(b) under section 8 of the Finance Act 1899 (on loan capital), these repeals shall be deemed to have had effect on and after 1st January 1973.

3. These repeals are without prejudice to subsections (3)(a) and (9) of section 49 of this Act.

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